



# Prichard Intermodal Development Site Environmental Assessment

Submitted to:

U.S. Department of Transportation –  
Federal Highway Administration

Submitted by

West Virginia Department of Transportation/  
West Virginia Public Port Authority/  
West Virginia Division of Highways

September 2011





U.S. Department  
of Transportation

**Federal Highway  
Administration**

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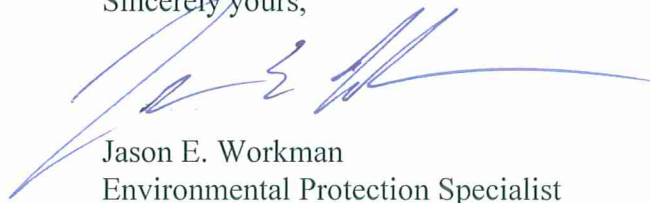
**IN REPLY REFER TO:**  
State Project X050-POR/T10.00  
Prichard Intermodal Development  
Environmental Assessment  
Wayne County

Gregory L. Bailey, P.E.  
Director – Engineering Division  
West Virginia Division of Highways  
Charleston, West Virginia 25305

Dear Mr. Bailey:

Enclosed please find a copy of the signature page of the Environmental Assessment (EA) for the above referenced project. Should you have any questions regarding the enclosed information, please contact me at (304) 347-5271 or via e-mail at [Jason.Workman@dot.gov](mailto:Jason.Workman@dot.gov).

Sincerely yours,



Jason E. Workman  
Environmental Protection Specialist



**PRICHARD INTERMODAL DEVELOPMENT SITE  
Wayne County, West Virginia  
State Project #X050-POR/T10.00**

**ENVIRONMENTAL ASSESSMENT**

Submitted Pursuant to 42 U.S.C. 4332(2)(c)  
U.S. Department of Transportation, Federal Highway Administration  
West Virginia Department of Transportation, West Virginia Public Port Authority and  
Division of Highways

10/3/11

Date of Approval

Paul d. Mattos, Jr.

For West Virginia Department of Transportation

10/4/11

Date of Approval

[Signature]

For Federal Highway Administration

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The Prichard Intermodal Development Site Project involves construction of a new intermodal terminal facility in Prichard, West Virginia. The proposed intermodal facility will be a component of the national Heartland Corridor Clearance Project, which will provide double-stack clearance along railroad lines from Roanoke, Virginia to Columbus, Ohio, passing through southern West Virginia.

Comments on this Environmental Assessment are due by November 18, 2011 and should be sent to:

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## **Executive Summary**

### **Project Description**

The Prichard Intermodal Development Site Project involves construction of a new intermodal terminal facility in Prichard, West Virginia. The proposed intermodal site will be a component of the national Heartland Corridor Clearance Project (Heartland Corridor). The Heartland Corridor Clearance Project will provide double-stack clearance along railroad lines from Roanoke, Virginia to Columbus, Ohio, passing through southern West Virginia. The project is being executed as a public-private partnership between Norfolk Southern (NS) Corporation and the Federal Highway Administration (FHWA) in conjunction with the states of Virginia, West Virginia, and Ohio. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) legislation enacted in 2005 includes the Heartland Corridor as a Project of National and Regional Significance.

As a result of the Heartland Corridor Clearance Project, double-stacked international and domestic containers will be shipped from the Port of Norfolk to Chicago and other points in the mid-west in one day's less time than the current double-stack routes through Harrisburg, Pennsylvania or Chattanooga, Tennessee. This will be accomplished by increasing the clearances through railroad tunnels in Mercer, McDowell, Mingo, and Wayne counties in southern West Virginia.

The State of West Virginia proposes to participate in the Heartland Corridor Clearance Project with the establishment of an intermodal port adjacent to the NS rail line in the unincorporated community of Prichard in Wayne County. The project area is an approximately 100 acre site located adjacent to the NS railroad in Prichard, just west of US 52 and 13 miles south of I-64. The site is bordered by the Big Sandy River on the west, which is also the border between West Virginia and Kentucky. Land for this facility is currently owned by NS and private property owners.

This Environmental Assessment (EA) compares the No Build Alternative and a Build Alternative. In accordance with the National Environmental Policy Act (NEPA), this EA presents discussions of the project purpose and need; alternatives development process; impacts of each alternative; mitigation measures; public involvement and agency coordination; and recommendation of a Preferred Alternative.

### **Purpose and Need**

The Prichard Intermodal Site Development Project is intended to provide a long term and stable economic stimulus through the construction and operation of an intermodal facility in conjunction with the Heartland Corridor. The objectives of this project are to:

- stimulate and support economic development within the region; and
- provide and maintain connections to key regional and national transportation corridors.

### **Alternatives**

This EA assesses the No Build and Build Alternatives for the proposed Prichard Intermodal Development Site Project. Based on the analysis presented in this EA, the

Build Alternative is the recommended preferred alternative. The No Build Alternative will be carried through as a baseline for comparison of impacts to the Build Alternative.

A two-phase screening approach was used to identify and evaluate potential alternate sites. The alternate sites included all sites 40-acres or larger with direct access to the NS mainline. During the Phase 1 screening, seven potential alternative locations were assessed. These sites were:

- Prichard, Wayne County
- Kenova, Wayne County
- Catlettsburg Refinery Property, Wayne County
- Hammonds Bottom, Wayne County
- Mingo County
- McDowell County
- Bluefield, Mercer County

As a result of the Phase 1 screening, two sites were eliminated. The Phase 2 screening of sites used a relative ranking analysis. Following the two-phased approach, the Prichard site was selected as the preferred alternative for the intermodal facility based on its close proximity to I-64, via US 52; relatively few proximal residential or commercial structures; and low probability of encountering substantial environmental issues.

The preferred alternative will require considerable fill material to elevate it “level” with the current railroad and the use of virtually the entire site for parking, storage, and intermodal transfer activities. The intermodal facility at the Prichard site will consist of grade-separated and at-grade access roads, storage and support tracks, an office building, a maintenance building, parking areas, and weigh-in motion scales.

**Environmental Impacts**

The impact analysis concluded that no significant impacts are expected as a result of the preferred alternative. The impacts of the No Build and Build Alternatives are summarized in the following table.

**Summary of Environmental Impacts of the No Build and Build Alternatives**

Category	No Build Alternative	Build Alternative
Traffic Level of Service (LOS)	LOS E on US 52	LOS E or F
Property Acquisition	No change	5 residences (4 occupied/1 abandoned); 9 outbuildings (barns/sheds)
Community Impacts	No change	No community resource impacts
Economic	No change	700 - 1,000 jobs and a statewide benefit of \$47-69 Million by 2025
Environmental Justice	No impact	No environmental justice population present; No disproportionate and adverse impacts
Farmland	No impact	71.9 acres prime farmland
Air Quality	No impact	Conformity analysis required prior to construction

<b>Category</b>	<b>No Build Alternative</b>	<b>Build Alternative</b>
Noise	No impact	Noise levels below impact threshold
Water Resources (Streams)	No impact	4,616 linear feet of 2 streams
Water Resources (Wetlands)	No impact	1.77 acres of 4 wetlands
Floodplains	No impact	Earth fill required to raise site above the 100-year floodplain; No impact to floodway of the Big Sandy River
Ecological	No impact	No impact
Threatened and Endangered Species	No impact	May affect but is unlikely to adversely affect federally-listed threatened and endangered species
Hazardous Materials	No impact	Potential impacts to contaminated soils and debris.
Cultural Resources	No impact	No adverse effect
Section 4(f) Resources	No impact	No adverse effect

**Public Involvement**

A public meeting will be held to give the public and agencies the opportunity to comment on the approved Environmental Assessment describing the No Build and Build Alternatives, potential impacts, and proposed mitigation measures.

**Commitments and Mitigation**

Minimization and mitigation measures are included with the recommended preferred alternative. Development of minimization and mitigation strategies will continue through final design of the intermodal facility. The following commitments and mitigation measures have been developed:

- Section 404/401 Joint Individual Permit
- Stream Activity Permit
- Final air quality conformity analysis will be done prior to start of work.
- Any clearing of trees will be conducted between November 15 and March 31 to prevent the direct take of Indiana bats.
- Any cultural resources identified and assessment of adverse effects will be carried out as outlined in the 2011 Programmatic Agreement.
- Debris, equipment, and materials associated with the residences, barns, and dumping area along the Big Sandy River will be handled in accordance with federal and state regulations.
- Construction documents and final grading procedures will account for the potential for localized surface soil contamination in and around agricultural sheds, barns, and equipment areas. If necessary at the time of construction, mitigation measures for the treatment and/or disposal of impacted soils will be performed. Impacted soils, if encountered, will be handled in accordance with state and federal solid waste regulations.

**Construction Schedule**

Construction of the intermodal facility will occur in phases. The first phase is scheduled to begin in 2012 and will include clearing and filling. Portions of the project area will be raised above the 100-year floodplain and to match the elevations of mainline track for connection of the pad, storage, and switching tracks associated with the proposed intermodal terminal. It is estimated that portions of the site will need to be filled with approximately 8 to 20 feet of fill material to raise the site above the base flood elevation.

The second phase of construction is scheduled for 2015. In this phase, access to the site from Big Sandy River Road will be constructed, which includes the access road, approaches and overpass across the railroad tracks.

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- Appendix C. Phase I Environmental Site Assessment

**LIST OF ACRONYMS**

AADT:	annual average daily traffic
AOI:	Area of Interest
CAA:	Clean Air Act
CEQ:	Council on Environmental Quality
CFR:	Code of Federal Regulations
dB:	decibel
dBA:	weighted decibel
DBH:	Diameter at Breast Height
DNL:	Day-Night Average Sound Level
EA:	Environmental Assessment
EJ:	Environmental Justice
EO:	Executive Order
ESA:	Endangered Species Act
ESA:	Environmental Site Assessment
FEMA:	Federal Emergency Management Administration
FHWA:	Federal Highway Administration
FIS:	Flood Insurance Study
FTA:	Federal Transit Administration
GSP:	Gross State Product
HIATS:	Huntington-Ironton Area Transportation Study
HUD:	United States Department of Housing and Urban Development
JD:	Jurisdictional Determination
KYGAP:	Kentucky Gap Analysis Program
KYOVA:	KYOVA Interstate Planning Commission
L <sub>eq</sub> :	equivalent continuous noise level
LOS:	level of service
LRTP:	2035 Long Range Transportation Plan
NAAQS:	National Ambient Air Quality Standards
NAIP:	National Agriculture Imagery Program
NEPA:	National Environmental Policy Act
NO <sub>2</sub> :	nitrogen dioxide
NO <sub>x</sub> :	nitrogen oxide
NRCS:	Natural Resources Conservation Service
NRHP:	National Register of Historic Places
NS:	Norfolk Southern Railroad
NVCS:	National Vegetation Classification System
ODOT:	Ohio Department of Transportation
OHWM:	Ordinary High Water Mark
PA:	Programmatic Agreement
PEM:	Palustrine Emergent
PM:	particulate matter
REC:	Recognized environmental conditions
RPW:	Relatively Permanent Waters
SAFETEA-LU:	The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
SIP:	State Implementation Plan
TIP:	Transportation Improvement Plan
TNM:	Traffic Noise Model
TTA:	The Transit Authority
USACE:	United States Corps of Engineers

USDA: United States Department of Agriculture  
USEPA: United States Environmental Protection Agency  
USFWS: United States Fish and Wildlife Service  
VOC: Volatile Organic Compounds  
WVDEP: West Virginia Department of Environmental Protection  
WVDNR: West Virginia Department of Natural Resources  
WVDOH: West Virginia Division of Highways  
WVDOT: West Virginia Department of Transportation  
WVGAP: West Virginia Gap Analysis Program  
WVPPA: West Virginia Public Port Authority  
WVSHPO: West Virginia State Historic Preservation Office

## **1.0 Purpose and Need**

### **1.1 Introduction**

The West Virginia Department of Transportation (WVDOT), in cooperation with the Federal Highway Administration (FHWA), is proposing a new intermodal terminal facility in Prichard, West Virginia (WV). The intermodal facility will consist of grade-separated and at-grade access roads, storage and support tracks, an office building, a maintenance building, parking areas, and weigh-in motion scales. The construction of a new intermodal facility in Prichard, WV is part of a larger multi-state freight rail improvement initiative known as the Heartland Corridor Clearance Project (Heartland Corridor). The terminal will provide Prichard and the surrounding markets with direct intermodal access to global markets. Intermodal service will be provided between Prichard and Chicago, Illinois and all points west, as well as the ports in Hampton Roads, Virginia in the east.

This Environmental Assessment (EA) has been prepared to determine the project's potential social, environmental, and physical impacts in accordance with the National Environmental Policy Act (NEPA). For this EA, and consistent with Council on Environmental Quality (CEQ) and FHWA regulations, a No-Build Alternative is included as a baseline to assess impacts with the Build Alternative. The No-Build Alternative will be considered in each area of the NEPA impact analysis.

### **1.2 Project Background**

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) legislation enacted in 2005 includes the Heartland Corridor as a Project of National and Regional Significance. The Heartland Corridor will double the intermodal rail capacity along freight rail lines through several states. This multi-state project includes raising tunnel clearances to accommodate double-stacked containers; realigning intermodal routes to reduce travel times and developing intermodal facilities along the Heartland Corridor.

The Heartland Corridor is being executed as a public-private partnership between Norfolk Southern Railroad (NS) and FHWA in conjunction with the states of Virginia, West Virginia, and Ohio. The Heartland Corridor will ultimately provide double stack clearance from the Ports of Virginia to Columbus, Ohio. It is scheduled for completion in 2012 (Figure 1).

The State of West Virginia proposes to participate in the Heartland Corridor project with the establishment of an intermodal facility adjacent to the NS rail line in the unincorporated community of Prichard, Wayne County (Figure 2). A portion of the land for this facility is currently owned by NS. NS Railroad will transfer its ownership of the property to the West Virginia Public Port Authority (WVPPA), a division of WVDOT for construction of the proposed Prichard intermodal development site.

### **1.3 Project Area**

The project area is an approximately 100 acre site located adjacent to the NS railroad in Prichard, Wayne County, WV just west of US 52 and 13 miles south of I-64 (Figure 2). The site is bordered by the Big Sandy River on the west, which is also the state line between West Virginia and Kentucky and the NS Railroad to the east.

### **1.4 Project Need**

Because a large portion of the Heartland Corridor runs through West Virginia, it offers an opportunity for the state to participate in the economic benefits that will flow from the Heartland Corridor and will assist the state in beginning the reversal of decades of declining economy. Short-term economic benefits will accrue to the state of West Virginia from intrastate construction activities associated with renovating tunnels and trackage of the NS railroad. However, for West Virginia to enjoy sustainable economic benefits from the Heartland Corridor, a permanent intermodal facility that takes advantage of the Heartland Corridor is required.

The Prichard Intermodal Site Development Project is anticipated to help bring economic development to the region. Industry research has documented that intermodal facilities often promote local economic development and increase employment opportunities. One notable example is the Virginia Inland Port located in Front Royal, Virginia. This facility is credited with creating approximately 7,000 jobs and generating \$600 million in local investment. Other intermodal facilities that have successfully attracted companies to locate nearby, created jobs and provided economic benefits are located in Huntsville, Alabama, Alliance, Texas, and Columbus, Ohio.

The construction of a new intermodal facility in Prichard, WV as part of a larger multi-state freight rail improvement initiative will provide Prichard and the surrounding markets with direct intermodal access to global markets. Intermodal service will be provided between Prichard and Chicago, IL and all points west, as well as the ports in Hampton Roads, Virginia.

### **1.5 Project Purpose**

The purpose of this project is to provide a long term and stable economic stimulus through the construction and operation of an intermodal facility in conjunction with the Heartland Corridor. It has been estimated that such a facility would generate a net increase of between 700 and 1,000 new jobs and a statewide benefit of \$47-69 Million (Gross State Product Impact) by 2025 (WVPPA, *Economic and Market Analysis for an Inland Intermodal Port*, June 2007).

The objectives of the Prichard Intermodal Site Development Project are to:

- stimulate and support economic development within the region; and
- provide and maintain connections to key regional and national transportation corridors.

## **2.0 Alternatives**

### **2.1 No-Build Alternative**

The No-Build Alternative is retained as a baseline for evaluation of the Build Alternative. Under the No-Build Alternative existing conditions of the site would remain the same. The No-Build Alternative will not meet the project purpose and need.

### **2.2 Build Alternatives Considered**

The West Virginia Department of Transportation initiated a study in 2000, to explore the feasibility of modifying existing railroad trackage so that the rail routes could accommodate double-stacked containers. This study also investigated sites which could accommodate a rail-truck intermodal terminal. The Prichard site was identified through this analysis. The results of this study are presented in the *Central Corridor Double-Stack Initiative Feasibility Analysis* (Appalachian Transportation Institute, 2003).

In 2007, the West Virginia legislature passed Senate Bill 569, which required the West Virginia Public Port Authority (WVPPA) to conduct a feasibility study of the identified Prichard site. The results are present in the *Economic and Market Analysis for an Inland Intermodal Port* (September, 2007). This study included an assessment of the initial planning, development, construction, operation, and long term sustainability of the facility. The Prichard site was evaluated in terms of highway and rail access, site characteristics, environmental constraints, utility infrastructure and land use compatibility. The purpose of this evaluation was to determine general feasibility of the site by identification of positive and negative attributes with respect to development, operations, and the potential for related industries.

The feasibility study also evaluated other sites along the Heartland Corridor route in West Virginia for comparison with the Prichard site. A two-phase screening approach was performed to identify and evaluate the potential alternate sites. The screening methodologies and results are presented in the following sections.

### **2.3 Alternatives Comparison Screening Methodology**

For Phase 1 Screening, the entire Heartland Corridor route in West Virginia was screened for 40-acre or larger sites with direct access to the Norfolk Southern (NS) railroad mainline. Each county along the route was initially considered. Following identification of potential sites, each of the sites was assessed with respect to highway access, rail access and general site characteristics.

In the Phase 2 Screening, five sites were further evaluated with respect to utility infrastructure, land-use compatibility, and known environmental constraints.

#### **2.3.1 Phase 1 Screening**

The Phase 1 screening identified seven potential alternative locations along the Heartland Corridor. These sites were assessed with respect to highway access, rail access and general site characteristics.

##### Prichard, Wayne County

The Prichard site is an approximately 100 acre site situated along the Big Sandy River. The primary existing land use in the Prichard area is residential. There are agricultural

and commercial areas dispersed throughout the residential areas throughout the Prichard community. The Prichard site has access to I-64 via US 52. This site is located adjacent to the NS railroad. The Big Sandy River to the west provides a natural security border. This site is located within the 100-year floodplain. Existing infrastructure includes both water and sewer.

Kenova, Wayne County

The Kenova site was previously identified by the WVPPA. This site is within the incorporated City of Kenova and is located at the intersection of 18<sup>th</sup> and Sycamore streets with the railroad along the site's northern boundary. The site's existing land use is characterized as mostly residential. Further from the site, land uses vary between residential, commercial and industrial. Water and sewer service is provided to the site by the City of Kenova.

Catlettsburg Refinery Property, Wayne County

The Catlettsburg Refinery owns a large parcel of river bottom land directly north of I-64 across the Big Sandy River from the Catlettsburg Refinery in Kentucky. The parcel is used for farming and is completely within the 100-year floodplain. It will require up to 30 feet of fill to raise the grade for compatibility with the NS mainline.

While the site is situated close to I-64, highway access is constrained by an underpass below the railroad which needs to be upgraded to provide adequate access.

Hammonds Bottom, Wayne County

The Hammonds Bottom site is a 100-plus acre site in Fort Gay, 11 miles south of Prichard. The site has direct rail access. This property is located within the 100-year floodplain.

Mingo County

According to the Executive Director of the Mingo County Redevelopment Authority, there are no available sites in Mingo County with direct access to the railroad mainline. The Wood Products Park in Mingo County is a mountain-top industrial park near Corridor G and a rail spur off of the Heartland Corridor. While the Wood Products Park is an attractive industrial site, it would not be feasible to develop an intermodal facility at this location because of the terrain. It is also not directly on the Heartland Corridor.

McDowell County

The McDowell County Development Authority suggested several former coal sites as potential locations for the intermodal facility. While the recommended sites have direct access to the railroad mainline, other site characteristics are unfavorable.

Bluefield, Mercer County

The feasibility study did not specifically evaluate a site in Bluefield even though NS owns a number of facilities in the Bluefield Yard. It could have been possible to piece together a site with satisfactory characteristics.

As a result of the Phase 1 screening, the McDowell County and Mercer County sites were eliminated from further consideration because of the difficulties associated with their development. Development challenges included: difficult or inadequate highway facilities to accommodate trucks; distance from an interstate highway; distance from

major markets; reclamation costs associated with abandoned mine lands and potential hazardous waste and stability issues associated with abandoned mine lands.

**2.3.2 Phase 2 Screening**

A comparison analysis of the remaining five sites was completed in the Phase 2 screening. Each site was scored based on the following positive attributes:

- Highway Access – Close proximity to Interstate haul routes with connecting roads of ample capacity; limited conflicts; and minimal safety hazards including no at-grade rail crossings.
- Rail Access – Direct access along the Heartland Corridor mainline, preferably on a horizontal tangent, with a pull-through capability and ample space for track storage and switching.
- Site Characteristics – Forty acres or more of developable, consistently flat property parallel to the Heartland Corridor mainline, situated above the base flood elevation.
- Environmental Constraints – No affected public facilities, historic structures, contamination sites, high quality streams, prime farmland, wetlands, or threatened and endangered species. Secondary data sources were utilized without field verification.
- Utility Infrastructure – All utilities available at the site.
- Land Use Compatibility – surrounding land use is industrial, transportation, or mining.

Screening was carried out by the assignment of relative rankings on a scale from 1 to 5 with 1 being the most positive and 5 the least positive. Table 1 presents the results of the screening analysis. A lower total score reflects a more positive alternative. It should be noted that the scores presented for each site should be considered approximate values due to the conceptual level of the evaluation.

**Table 1. Comparative Rankings of Phase 2 Screening Alternatives**

Site Name	Highway Access	Railway Access	Site Characteristics	Infrastructure Available	Compatible Land Use	Environmental Constraints	Total
Prichard	2	1	2	2	2	2	11
Kenova	3	3	4	1	5	3	19
Catlettsburg Refinery	3	2	3	2	2	2	14
Hammonds Bottom	4	1	2	3	3	2	15
Mingo County	3	4	5	2	1	1	16

**2.4 Preferred Alternative**

Following completion of the two-phased alternatives screening analysis, the Prichard site was selected as the preferred alternative for the intermodal facility. This decision was based on several factors including:



- its close proximity to I-64, via US 52;
- relatively few proximal residential or commercial structures; and
- low probability of encountering substantial environmental issues.

The latter issue is of particular importance because, in order for the facility to function at the level required for a cost-effective intermodal terminal the entire site will be developed. This will require considerable fill material to elevate it “level” with the current railroad and the use of virtually the entire site for parking, storage and intermodal transfer activities. Figure 3 presents a conceptual design of the intermodal facility at the Prichard site. The intermodal facility will consist of grade-separated and at-grade access roads, storage and support tracks, an office building, a maintenance building, parking areas, and weigh-in motion scales.

By providing access to intermodal rail, the access to the site itself will be improved and will make the site more attractive for additional industrial and economic development. The addition of rail access will make the site more accessible for intermodal container traffic, leading to increased development opportunities for Wayne County.

### **3.0 Affected Environment and Impacts**

The following sections present existing physical, biological, cultural, and socioeconomic environments of the approximately 100-acre Prichard site and the impacts analysis of the No-Build and Build Alternatives. Consistent with Environmental Quality (CEQ) and Federal Highway Administration (FHWA) regulations (40 CFR 1500 and 23 CFR 771 respectively), resource areas that would be unlikely to sustain any impacts from the proposed action, either negative or positive, are addressed, but in a relatively cursory manner. Resource areas that would potentially be affected in either a positive or negative manner by the implementation of the Build Alternative are discussed in greater detail.

The No-Build Alternative is retained as a baseline for evaluation of the Build Alternative. Under the No-Build Alternative existing conditions of the site would remain the same.

The Build Alternative is the proposed intermodal facility, which will consist of grade-separated and at-grade access roads, storage and support tracks, an office building, a maintenance building, parking areas, and weigh-in motion scales (Figure 3). The Build Alternative is the recommended preferred alternative.

#### **3.1 Land Use/Land Cover**

The project area is comprised of 8 parcels of land as shown on Figure 4. Table 2 lists the land use for each parcel that is located within (fully or partially) the project area. Approximately 75 percent of the approximately 100-acre site is pastureland, 20 percent is forested, primarily located along ditches, and five percent of the project area is residential (Figure 4). The Prichard Industrial Park is located to the northeast of the project area. Existing land uses adjacent to the site within Prichard include agricultural and commercial areas dispersed throughout residential uses.

**Table 2. Land Use by Parcel**

<b>Map ID Number*</b>	<b>Acreage</b>	<b>Land Use</b>	<b>Structure</b>
TM3 PAR 54	66.6	Undeveloped woodland, grazing pasture and agricultural hayfields	None
TM 3 PAR 4	4.0	Residential, farmstead	(1) Occupied residence, (3) Barns
TM 3 PAR 5	1.0	Open fields, grazing pasture	(1) vacant residence, (2) barns
TM 3 PAR 3	8.0	Residential	(2) Occupied residences, (2) Sheds
TM 3 PAR 2	4.03	Undeveloped woodland and Mill Fall Branch Stream - State ROW	None
TM 6 PAR 1	22.9	Open agricultural fields	(1) Barn
TM 3 PAR 1.1	0.7	Open grass lot	None
TM 3 PAE 1	0.6	Residential Lot	(1) Occupied residence (1) Shed

\*Note: Map ID numbers shown on Figure 4.

The Build Alternative will convert the land uses of the approximately 100 acre project area to industrial use. The majority of the land within the proposed project is open land and agricultural. Approximately 88 percent of the land in the project area will be converted from open land and agricultural land use to industrial use. Approximately 12 percent of residential land would be converted to industrial use. The number and type of structures that would be impacted are listed in Table 2. A total of four occupied residences will be acquired as a result of this project. Table 2 also presents acreage impacts per property parcel. To determine the total acres, if a parcel is within the project area, then the total acreage of the parcel is included in the total.

The Wayne County Economic Development Authority, through the Wayne County Board of Commissioners, has designated the project area for industrial development; therefore the Build Alternative is consistent with local land use plans. The conversion of land for this project is in accordance with the Wayne County adopted land use plan.

The Build Alternative will not result in adverse impacts to land use because of the limited nature of this conversion when compared to the larger land areas of Wayne County and the State of West Virginia.

Under the No-Build Alternative existing conditions of the site would remain the same.

### **3.2 Farmlands**

According to the Natural Resources Conservation Service (NRCS) Wayne County soils maps, soil types in the project area include: Ashton silt loam (AsA) 21.4 acres, NRCS Prime farmland soil type; Guyan silt loam (Gy), 23.5 acres, NRCS prime farmland; Kanawha Loam (KaB) 4.8 acres, NRCS prime farmland; Nelse silt loam (NeD), 7.5 acres, NRCS prime farmland and Udorthents (Ud), soils that have been disturbed by excavation or fill, 14.7 acres. The project area has been and is currently being used as pastureland and thus meets the USDA definition of farmland.

A Farmland Conversion Rating Form (Form AD-1006) was completed for the project using the definitions and rating criteria for completion as detailed by the United States Department of Agriculture. Part VI of the Form AD-1006 was completed by the project sponsors, the West Virginia Public Port Authority (WVPPA) and the Federal Highway Administration (FHWA). The total score for Part VI of the analysis for the project area was 46 points therefore; coordination with the Natural Resources Conservation Service is not required. Since the project area's total score will be less than 160, this site will receive no further consideration for farmland protection. Neither the Build Alternative nor the No-Build Alternative will have a significant impact to farmland resources.

### **3.3 Air Quality**

Air pollution is a general term that refers to one or more chemical substances that degrade the quality of the atmosphere. The Clean Air Act (CAA) Amendments of 1990 and the Final Transportation Conformity Rule [40 CFR Parts 51 and 93] direct the US Environmental Protection Agency (USEPA) to implement environmental policies and regulations that will ensure acceptable levels of air quality. Section 107 of the 1977 CAA Amendment requires that the USEPA publish a list of all geographic areas in compliance with the National Ambient Air Quality Standard (NAAQS), as well as those areas not in attainment of the NAAQS. Areas not in compliance with the NAAQS are termed nonattainment areas.

KYOVA Interstate Planning Commission (KYOVA) has developed a supplemental Air Quality Conformity Analysis, in accordance with federal requirements, for the 2035 Long Range Transportation Plan (LRTP) and the Transportation Improvement Program (TIP) for the Huntington-Ironton Area. KYOVA has completed this work pursuant to the CAA Amendments and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU); and in cooperation with the West Virginia Department of Transportation (WVDOT), Ohio Department of Transportation (ODOT), FHWA, Federal Transit Administration (FTA) and The Transit Authority (TTA).

The TIP for the Huntington-Ironton Metropolitan Statistical Area (all of Cabell and Wayne counties in West Virginia and the urbanized area of Lawrence County, Ohio) includes priority projects and programs for which implementation is anticipated in fiscal years 2010 - 2013. More specifically, the TIP describes all highway and transit (both capital and operating) maintenance and new capacity; and bicycle and other transportation projects for which federal funding is anticipated and provides a financial plan for implementation. The Prichard Intermodal Terminal Project is included in the Huntington-Ironton Area Transportation Study (HIATS) Year 2035 Long Range Transportation Plan (May, 2009) as an unfunded project. The project is also listed in the WVDOT Statewide Transportation Improvement Program (STIP) for federal fiscal years 2011 - 2016.

An air quality conformity analysis was conducted for the KYOVA 2035 LRTP. The Prichard Intermodal Terminal Project was represented in the conformity determination for the LRTP. This analysis was required to meet the Fine Particulate Matter (PM<sub>2.5</sub>) NAAQS and the 8-hour ozone NAAQS. A full discussion of the air quality conformity analysis results is presented in the KYOVA HIATS 2035 LRTP. The planning horizon years included in the air quality conformity analysis include 2009 and 2018 (budget years), 2025 (interim year) and 2035 (the last year of the transportation plan), as required by 40 CFR 93.118.

Wayne County, West Virginia is part of the Huntington-Ashland-(WV-KY-OH) PM<sub>2.5</sub> non-attainment area. The Huntington area has established 8-hour mobile source State Implementation Plan (SIP) emissions budgets which were published in the July 13, 2006 Federal Register (71 FR 39618). The 8-hour ozone maintenance non-attainment area includes Cabell and Wayne counties, West Virginia.

The results of the PM<sub>2.5</sub> analysis indicate that the future area-wide mobile source emission of PM<sub>2.5</sub> and nitrogen oxide (NO<sub>x</sub>) will be less than the 2002 baseline emissions. The results of the 8-hour ozone analysis indicate that the future area-wide mobile source emissions of NO<sub>x</sub> and volatile organic compounds (VOC) will be less than the SIP emissions budgets through the year 2035 for the ozone non-attainment area.

The Build Alternative is listed in the WVDOT STIP for federal fiscal years 2011 – 2016 and in the HIATS Year 2035 Long Range Transportation Plan as an unfunded project and will need to be analyzed for conformity prior to the start of work. Construction activities, including equipment operation and hauling of material, could result in temporarily increased vehicle exhaust and emission of particulate matter.

The No-Build Alternative could result in temporarily increased vehicle exhaust and emission of particulate matter.

### **3.4 Noise**

Noise is defined as unwanted sound perceived subjectively by individuals. A variety of methods are used to describe noise. For the purpose of this analysis, noise is described using the sound level in decibels (dB). Decibels are a unit of measure on a logarithmic scale used to demonstrate the amount of sound pressure at a given location from the general environment or specific sources.

An initial aerial view of the land use near the proposed facility indicates that there are few potential noise sensitive receptors in the area. These sensitive receptors are primarily located on or near Old RT 52, Prichard Road and Big Sandy River Road and consist of approximately 15 scattered homes.

Noise level measurements were not performed for this evaluation. However, existing noise levels were obtained from other studies including the US 52 Bypass study (Tolsia Environmental Impact Statement). As part of that analysis, modeled sound levels were developed through the use of the CREATE Railroad Noise Model.

A preliminary noise analysis was undertaken to identify and evaluate potential air-borne noise impacts of the Build Alternative, including freight rail, on-site activities, and off-site highway vehicles to and from the intermodal facility. It is a general assessment based on current predicted known operational data. Modeled sound levels were developed through the use of the CREATE Railroad Noise Model.

The average individual's ability to perceive changes in community noise levels is well documented. Generally, changes in noise levels of approximately 3 A-weighted decibels (dBA) or less is barely noticed by most listeners, a change of 5 dBA is readily perceptible, and a 10 dBA change is perceived as doubling (or halving) of loudness.

### **3.4.1 Rail Operations Noise – No-Build Alternative**

The model assumptions included 20 existing passing trains each week day. A worst-case scenario applied these operations evenly across daytime and night time hours to account for a night time noise perception penalty. The resulting sound level was 61 dBA (Day-Night Average Sound Level (DNL), with night time penalty) at the nearest residences to the proposed intermodal facility, approximately 300 feet away from the group of railroad tracks. It should be noted that if all of the train operations occur during the day (7:00 AM to 10:00 PM), then the sound levels would be 57 dBA (Leq, no penalty applied).

### **3.4.2 Highway Vehicle Noise – No Build Alternative**

Existing sound level measurement results were taken from the US 52 Bypass Study (Tolsia Environmental Impact Statement). The nearest peak sound levels at homes in the area of the proposed off-site truck haul route were 51 decibels (dBA) at the elementary school and 56 dBA at Shannon Cemetery. The elementary school is approximately 1,200 feet away from the railroad tracks and the Shannon Cemetery is approximately 250 feet from the railroad tracks. It is unknown if the short-term measurements included any train pass-by sound.

As noted above, the existing  $L_{eq}$  sound level contribution from the train operations was estimated to be 57 dBA  $L_{eq}$ , during the day at the receptors nearest to the proposed facility. Therefore, the 57 dBA level was estimated to represent the ambient sound levels to which the predicted truck noise will be added.

### **3.4.3 Build Alternative- Noise Level Inputs**

The CREATE Railroad Noise Model was used to determine the existing and build condition freight train sound levels. . The model assumptions included 20 existing passing trains each weekday and an additional would add three trains in each direction per week as a result of the Build Alternative.

The model used to determine the build condition off-site vehicle sound levels was Traffic Noise Model Version 2.5 (TNM 2.5). The initial number of trucks per day is estimated to be 107 per five-day work week. The number of daily employee vehicle trips was estimated to be 18 (nine in and out of the facility).

Additionally, on-site activity sound levels included two ReachStacker-type lift machines (one would be a reserve), and four hostler trucks (one would be a reserve). The sound levels for these activities was measured at a similar facility and applied to the Build Alternative.

### **3.4.4 Criteria**

The United States Environmental Protection Agency and United States Department of Housing and Urban Development (EPA/HUD) criteria identifies a day-night average sound level (DNL) impact at a residential site if it is above 65 DNL. The Federal Transit Administration (FTA) criteria (from the “Transit Noise and Vibration Impact Assessment” guidelines), though also employing DNL and/or  $L_{eq}$ , is a bit more complex as it employs a sliding scale that takes the existing sound level into account and measures it with the cumulative noise versus the existing levels.

The FHWA absolute criteria for highway vehicles identify 66 dBA  $L_{eq}$  (or higher) as an impact for noise sensitive sites such as residences. The West Virginia Department of Transportation (WVDOT) also identifies a substantial increase impact if the noise level increase over existing is greater than 15 dBA.

### **3.4.5 Impact Assessment**

#### **3.4.5.1 Rail**

The nearest noise sensitive receptors in the vicinity of the proposed intermodal facility are located on the east side of Old US 52, approximately 300 feet from the railroad tracks. It is estimated that by adding three trains in each direction per week (six total), the sound level would not change the 61 DNL or the 57  $L_{eq}$  sound levels. It should be noted that the model rounds off the values so there may be a slight change, but it would be in tenths of a decibel, and not perceptible to the human ear.

#### **3.4.5.2 Highway**

The nearest noise sensitive receptors along the truck route from the intermodal port to US 52 in the vicinity of the proposed facility are located primarily along Old US Route 52 and Prichard Road. It is estimated that by adding 107 trucks per weekday, the sound level would increase by one dBA from the existing 61 DNL (rail) to 62 DNL (if there was regular, steady truck ingress/egress 24 hours a day). If the trucks are not proposed to operate at night, then the peak hour sound level (with a conservative 10 percent peak hour) would increase by 2 dBA from the existing 57  $L_{eq}$  to 59  $L_{eq}$ .

#### **3.4.5.3 Build Alternative**

The on-site operation sound levels were estimated from measurements performed at another intermodal facility with cranes and hostlers. The sound levels at this site would be louder than the Build Alternative because there were more operations at the measurement site. However, in order to calculate a hypothetical worst-case condition, the full levels were applied, but adjusted for the source to receiver distances at Prichard. DNL was not calculated or collected at these sites, only  $L_{eq}$ . Additionally, the sound level meter was not stationary during the crane noise source monitoring. Rather, it moved with the crane to always be in proximity of the crane operations. In relation to a fixed residential site, the crane would be moving either closer to or farther away from the house.

Based on the worst-case similar facility measurement, it was estimated that the total sound level contribution from on-site operations would range between 51 and 58 dBA. Therefore, it was estimated that the averaged sound level will be approximately 54 dBA  $L_{eq}$ . If there are some night time crane/hostler operations, then the DNL level will be slightly higher than 54 dBA (assuming that it will not be a continuous 24-hour a day function). If there are no nighttime operations, then the DNL will be the same or lower than 54 dBA.

#### **3.4.5.4 Cumulative Noise**

The hypothetical worst-case cumulative sound levels were predicted. At the nearest noise sensitive residences, it was estimated that the combined rail/truck/on-site operations will produce a DNL level of approximately 63 dBA if all sources have night time functions between 10:00 PM to 7:00 AM on a regular basis.

Assuming that the existing rail traffic still maintains its 24-hour a day schedule and the intermodal facility operations occur during the day on a regular basis (7:00 AM to 10:00 PM), it is estimated that the combined rail/truck/on-site operations will produce a peak hour  $L_{eq}$  of approximately 60 dBA.

#### **3.4.5.5 Noise Mitigation Measures**

The need for mitigation is determined based on the magnitude and consideration of factors specifically related to the proposed project and affected land uses. Furthermore, the predicted sound levels are direct line-of-sight from the source to receptor with nothing blocking the sound waves, such as other buildings or railroad cars, etc.

Relative to the cumulative noise, the result of the preliminary analysis indicates that even though the predicted increase in sound levels may be perceptible, there will be no impacts based on the DNL or  $L_{eq}$  criteria. Therefore, no additional mitigation is proposed to any current agreements that may already be on record.

### **3.5 Surface Water Resources**

In June, 2009, Michael Baker Jr., Inc. documented jurisdictional aquatic resources within the project area in a report entitled, *Preliminary Jurisdictional Determination for the Proposed Prichard Intermodal Facility* (Baker, 2009). A Preliminary Jurisdictional Determination (JD) letter was issued by the US Army Corps of Engineers (USACE) confirming the findings of the report.

In May and June 2011, AllStar Ecology, LLC (ASE) conducted field investigations to identify jurisdictional aquatic resources in additional Areas of Interest (AOI) and to confirm the 2009 findings of the aquatic resources. The additional AOI consist of three separate areas totaling 76.31 acres, which extend beyond the 100-acre Prichard Intermodal Development Site project area. The 2009 AOI was expanded to include all areas of disturbance and possible onsite resource mitigation options for the project.

#### **3.5.1 Streams**

Aquatic resources (streams) within the project area were identified based on the presence of an Ordinary High Water Mark (OHWM) along with a defined bed and bank. Stream types were based on characteristics from the USACE June 2007 guidance for jurisdictional determinations. Streams encountered within the project area were classified as Relatively Permanent Waters (RPW)--tributaries that typically flow year-round or have continuous flow at least seasonally. Seasonal flow was considered to be for three or more months per year. Three streams comprising 6,012 linear feet were identified within the project area (Table 3). Figure 5 shows the locations of the streams within the project area.

##### **3.5.1.1 Mill Fall Branch**

Mill Fall Branch extends out of the project area and continues along a relatively narrow valley. The 1,392 linear feet of Mill Fall Branch within the project area has a substrate comprised mostly of clay, sand, and silt with some gravel. The riparian buffers consist of bottomland vegetation.

**3.5.1.2 Unnamed Tributary of the Big Sandy River**

Approximately 3,890 linear feet of Unnamed Tributary of the Big Sandy River occurs within the project area. This Unnamed Tributary of the Big Sandy River is very incised and entrenched and runs through a small wooded area. Most of the channel lays within open pasture where the channel becomes discrete and disturbed from frequent cattle access. Much of the channel is filled with timber. Stream sediment consists mainly of clay, sand, and silt. The Unnamed Tributary #1 of the Big Sandy River extends out of the project area through a small railroad culvert.

**3.5.1.3 Unnamed Tributary 2 of the Big Sandy**

Approximately 730 linear feet of this resource occurs within the AOI. Unnamed Tributary # 2 of the Big Sandy River, and is small RPW resource that flows from the railroad tracks to the Big Sandy River at the very northern end of the AOI.

**3.5.2 Stream Impacts**

Based upon a preliminary jurisdictional determination (JD) from the US Army Corps of Engineers (USACE), construction of the intermodal site will require that the entire site be raised through the deposition of fill material to raise portions of the site above the 100-year flood plain and to match the elevations of mainline track for connection of the pad, storage, and switching tracks associated with the proposed intermodal terminal. Therefore, there is no practicable alternative that will avoid or minimize impact (i.e., culverting) to these streams.

The No-Build Alternative will not result in impacts to streams. The Build Alternative, however, will impact 4,616 linear feet of streams (Table 3). This includes 3,224 linear feet of impact to the Unnamed Tributary of the Big Sandy River and 1,392 feet of impact to Mill Fall Branch.

In addition, the Big Sandy River borders the site but by utilizing best management practices, there will be no increase in pollutant loading to this resource from the Build Alternative.

A “Section 404/401 Joint Individual Permit” will be required from the USACE and West Virginia Department of Environmental Protection (WVDEP). In addition, a “Stream Activity Permit” will be required from the state Public Lands Corporation.

**Table 3. Stream Resources and Project Impacts**

<b>Resource</b>	<b>Length (linear feet)</b>	<b>Impacts from Build Alternative (linear feet)</b>	<b>Classification</b>
Mill Fall Branch	1,392	1,392	RPW
Unnamed Tributary of the Big Sandy River	3,890	3,224	RPW
Unnamed Tributary #2 of the Big Sandy River	730	0	RPW
<b>Total</b>	<b>6,012</b>	<b>4,616</b>	



**3.5.2.1 Stream Mitigation Measures**

Mitigation measures for stream impacts will be determined by WVDEP and USACE during the Section 401 and 404 permit process. Mitigation could include utilizing West Virginia’s established in-lieu fee payment program.

**3.5.3 Wetlands**

Wetlands were identified in accordance with the 1987 USACE Wetland Delineation Manual Eastern Mountain Regional Supplement. They were classified using the Cowardin et al, Classification System (1979). Cowardin classification divides wetlands into five major systems. Each wetland system is further categorized into Class and Subclass by vegetation type and/or substrate. The classification also describes the water regime of the wetland, including any modifications to its hydrology. All wetlands within the project area are classified as Palustrine emergent (PEM) and are characterized by erect, rooted, herbaceous vegetation (Table 4). Figure 5 shows the locations of the wetlands within the project area.

**Table 4. Jurisdictional Wetland Resources and Impacts within the Project Area.**

<b>Resource</b>	<b>Size (acres)</b>	<b>Impacts from Build Alternative (acres)</b>	<b>Cowardin Classification</b>	<b>Dominant Vegetation</b>
Wetland 1	1.76	1.76	PEM	Soft rush, willows, fescue
Wetland 2	0.007	0.004	PEM	Soft rush, fescue
Wetland 3	0.003	0.004	PEM	Soft rush, seedbox, fescue
Wetland 4	0.002	0.002	PEM	Multi-flora rose, soft rush, reed canary grass
Wetland 5	0.58	0.00		Japanese stilt grass, fox sedge, common rush
Wetland 6	0.03	0.00	PEM	Spike rush, Japanese silt grass, fox sedge, common rush
Wetland 7	0.01	0.00	PEM	Spike rush, fox sedge, common rush
Wetland 8	0.16	0.00	PEM	Spike rush, fox sedge, and common rush.
Wetland 9	0.20	0.00	PEM	Fox sedge
Wetland 10	0.07	0.00	PEM	Japanese stilt grass and fox sedge
Wetland 11	0.05	0.00	PEM	Japanese stilt grass, fox sedge, and bulrush
Wetland 12	0.01	0.00	PEM	Japanese stilt grass and fox sedge
<b>Total</b>	<b>2.872</b>	<b>1.77</b>		

There are 12 wetlands within the project area. The Build Alternative will impact a total of 1.77 acres of four wetlands. These wetlands include: Wetland 1, Wetland 2, Wetland 3, and Wetland 4. A preliminary JD was obtained from the USACE, which indicated that there is no practicable alternative that will avoid or minimize impact to these wetlands.

The No-Build Alternative will not result in impacts to wetlands.

### **3.5.3.1 Wetland Mitigation Measures**

Mitigation measures for wetland impacts will be determined by WVDEP and USACE during the Section 401 and 404 permit process. Mitigation could include utilizing an established wetland mitigation bank.

### **3.5.4 Floodplains and Floodways**

The project area is located within the 100-year floodplain of the Big Sandy River (Zones A and AE). A small portion of the site is also located within the floodway of the Big Sandy River. Figure 5 shows the locations of the floodplains and floodways within the project area.

The Build Alternative will require portions of the project area to be raised above the 100-year floodplain and to match the elevations of mainline track for connection of the pad, storage, and switching tracks associated with the proposed intermodal terminal. It is estimated that portions of the site will need to be filled with approximately 8 to 20 feet of fill material to raise the site above the base flood elevation. A preliminary estimate of the volume of fill required for the Prichard Intermodal Development Site concept prepared by NS is on the magnitude of 500,000 cubic yards.

The project area is within a detailed Flood Insurance Study (FIS), which has a defined floodway. It is anticipated that impacts to water surface elevations resulting from any development outside the floodway will not require Federal Emergency Management Agency (FEMA) approval. While the concept plan developed by NS might imply some fill to be placed within the floodway, the site could accommodate a facility design that does not encroach into the floodway. Therefore the proposed facility will not impact the floodway or flood flow of the Big Sandy River. The Flood plain Administrator for Wayne County was contacted and stated their familiarity with the proposed intermodal facility project.

The No-Build Alternative would not result in impacts to the 100-year floodplain.

#### **3.5.4.1 Floodplains and Floodways Mitigation Measures**

The need for mitigation is determined based on the magnitude and consideration of factors specifically related to the proposed project impacts. Since the Build Alternative will not impact the floodway or flood flow of the Big Sandy River no mitigation is proposed as part of the project. If it is determined that the Build Alternative will affect the floodway or 100-year floodplain elevation, then appropriate channel modification may be done in order to mitigate the impact and coordination will be completed with the appropriate officials and regulatory agencies. This coordination will occur during the final design process and appropriate mitigation measures will be incorporated into the final design in accordance with official guidance.

## **3.6 Biological Resources**

### **3.6.1 Wildlife**

There are at least 70 different species of mammals in West Virginia and over 300 bird species have been identified as residents or migrants. West Virginia also has many species of reptiles and amphibians. Because of the relatively small size and relatively uniform habitat (pastureland) within the project area, it can be expected that wildlife

species present will be those generalized species typically associated with disturbed environments and would include such common animals as raccoon, opossum, deer mice, white-tailed deer, black rat snakes, garter snakes, etc. Bird species present, and observed, would include generalized species such as American robin, cowbird, common crow, mourning doves, etc.

The No-Build Alternative would not impact wildlife resources, and the Build Alternative will have minimal impacts. There are no migratory mammals in the project area and thus the intermodal facility will not interfere with any mammalian migratory patterns. Large mammals (e.g., white-tailed deer) are currently kept out by existing electric fencing that surrounds the pasture. Because of the availability of habitat in Wayne County, displacement or removal of small animals present will not significantly impact wildlife species in Wayne County.

### **3.6.2 Rare, Threatened and Endangered Species**

The West Virginia Department of Natural Resources (WVDNR) is charged with administration of WV endangered species. Coordination with WVDNR revealed that no state listed species are likely to be present in the project area.

The Endangered Species Act (ESA), administered by the US Fish and Wildlife Service (USFWS), affords protection to those species of plants and animals formally listed by the ESA. On September 7, 2011 a Section 7 consultation letter was sent to USFWS requesting information on any rare, threatened, or endangered species known to the area. In a letter dated September 9, 2011 (Appendix A), USFWS stated that one Federally-listed endangered species, the Indiana bat (*Myotis sodalis*) may be present within the project area.

In general, Indiana bats primarily reproduce in a variety of tree species including oaks-hickories, maples, birches, elms, ashes, and cottonwoods (Gardner and Cook, 2002; Gumbert et al., 2002). The species prefers to choose forest stands around large open areas mixed with wooded areas (Gardner and Cook, 2002). Summer habitats are quite varied including the edge of woodlots and agricultural fields, heavily logged and heavily grazed open woodlots, pastures, older forest stands, linear riparian forest, open lands, closed canopy deciduous forest, and bottomland forest (Brack et al. 2002; Carter et al. 2002; Gumbert et al. 2002; Whitaker and Brack, 2002). In the Mid-west, habitat models indicate that areas where Indiana bats tend to occur often have at least five percent forest cover between 20 and 60 percent of forest cover being ideal (Farmer et al., 2002).

Bottomland forest was a specific habitat type that roost trees are often found in due to the favored conditions for the creation of snags (Carter et al., 2002). A variety of tree species have been noted as roost site for Indiana bats including elms, pines, oaks, shagbark hickory, cottonwoods, and butternut hickory (Whitaker and Brack, 2002). The presence of exfoliating bark is important along with a roost site receiving solar radiation for warmth (Whitaker and Brack 2002). Dead snags with exfoliating bark are the most common roost tree while shagbark hickory is the most commonly used live tree (Gumbert et al., 2002; Kurta et al., 2002). While roost trees tend to be trees with a large diameter at breast height (DBH), the USFWS considers potential Indiana bat roost trees as any tree greater than five inches diameter at breast height (DBH) with exfoliating bark or with holes, cracks or crevices (Angus et al., 2001).

### **3.6.2.1 Indiana Bat Habitat Analysis**

Since the project will require the clearing of approximately 69 acres of forested area, there are concerns about possible impacts to the federally endangered Indiana bat. Therefore, an assessment of forested habitat in the area was conducted and concluded that sufficient Indiana bat habitat exists in the vicinity of the proposed intermodal facility.

The Indiana bat habitat assessment study area was a two-mile buffer surrounding the proposed intermodal site. This study area encompassed 8,040 acres, which included 6,190 acres of forested land. The proposed intermodal facility will impact 69 acres of forested area, which is only 1.11 percent of the available forest area in the habitat assessment study area.

The onsite habitat assessment found several forested stands on and adjacent to the project area that may serve as roosting and foraging habitat, but given the large amounts of forested land in the vicinity of the proposed intermodal facility, Indiana bats should be able to find suitable habitat nearby.

Overall, the proposed disturbance for the Build Alternative will have minimal impacts on Indiana bats as clearing will be timed to avoid direct take and sufficient habitat is available in the project vicinity to offset the loss from the disturbance and construction of the intermodal facility. Clearing will be conducted between November 15 and March 31 to prevent the direct take of Indiana bats. Should a tree be removed that provides habitat for a summer colony, energy expenditures by a bat to relocate to a suitable summer habitat would be minimal.

The project area may serve as a corridor since riparian vegetation along the right bank of the Big Sandy River forms a somewhat linear feature, but the impact will likely be minimal as the town of Prichard is the only non-habitat area in the vicinity so corridors to connect forested areas are not critical.

Based upon the analyses conducted for this project and coordination with USFWS, the Build Alternative may affect, but is not likely to adversely affect any Federally-listed endangered and threatened species. Therefore no biological assessment or further Section 7 consultation is required. USFWS coordination letters are provided in Appendix A.

The No-Build Alternative will not have an impact on the Indiana bat or any other Federally-listed endangered and threatened species.

### **3.6.2.2 Threatened and Endangered Species Mitigation Measures**

The need for mitigation is determined based on the magnitude and consideration of factors specifically related to the proposed project impacts. Direct take of Indiana bats will be avoided by clearing trees between November 15 and March 31. At this time, no adverse impacts are anticipated, and no other mitigation measures are proposed.

## **3.7 Cultural Resources**

Section 106 of the National Historic Preservation Act of 1966, as amended, protects those properties that are listed in or eligible for listing in the National Register of Historic Places (NRHP). In accordance with the requirements of Section 106, the National

Environmental Policy Act (NEPA), and Executive Order 11593, cultural resources within the project area are being assessed.

Both historic and archaeological surveys are currently being completed for the project area and will be coordinated with the West Virginia State Historic Preservation Office (WVSHPO). Because the effects on NRHP eligible historic and archaeological properties will not be fully determined prior to approval of the Undertaking, a Programmatic Agreement (PA) among the WVSHPO, West Virginia Division of Highways (WVDOT), West Virginia Public Port Authority (WVPPA), FHWA and the Advisory Council on Historic Preservation (ACHP), if it chooses to participate, has been developed. The PA is provided in Appendix B. The PA in part guarantees that a complete investigation of all archaeological and historic architectural resource reports, findings, and mitigation will take place prior to any construction activities at the site.

Utilization of a PA prior to the beginning of construction activities is consistent with Section 106 regulations as provided in 36 CFR 800.4(b)(2) concerning phased identification and evaluation.

The Norfolk Southern Railway adjacent to the project area was evaluated in the Heartland Corridor Project and is considered eligible for the NRHP. It is anticipated that no adverse effects to NRHP eligible historic or archaeological sites will occur in the project area. Any other cultural resources found to be present will be dealt with as required by federal and state regulations. If it is determined that the Build Alternative will have an adverse effect on a significant historic site, then further coordination with the Federal Highway Administration (FHWA) will be completed.

The No-Build Alternative will not result in impacts to cultural resources.

### **3.8 Section 4(f) Resources**

Section 4(f) of the Department of Transportation Act of 1966, as amended in 1983 (49 U.S.C. Section 303) was enacted to preserve publicly owned land used for recreation, wildlife, and waterfowl refuges under Section 4(f) of the Act. Section 4(f) properties are publicly owned parks, wildlife management areas, historic resources that are listed on or eligible for listing on the NRHP and archaeological sites that are eligible for the NRHP and warrant preservation in place.

There are no publically owned parks, recreation areas, and wildlife and waterfowl refuges located within the project area. The Norfolk Southern Railway Company rail line adjacent to the project area has been determined eligible for the NRHP, however, it is anticipated that no adverse effects to NRHP eligible historic or archaeological sites will occur in the project area.

The presence of additional historic and archaeological sites that are eligible for listing in the NRHP will be determined following completion of surveys conducted to identify these resources. If it is determined that an eligible site exists in the project area, it will be addressed in accordance with the PA (Appendix B).

WVPPA understands that if a significant historic site is identified upon which the proposed intermodal facility will have an adverse effect, then further coordination with the FHWA will be completed. It also understands that coordination may result in a

requirement to complete a Section 4(f) evaluation which may result in changes to the construction plans, including the selection of a new alternative.

The No-Build Alternative will not result in impacts to Section 4(f) resources.

### **3.9 Socioeconomics**

#### **3.9.1 Demographics**

According to the 2000 US Census, there were 42,903 people, 17,239 households, and 12,653 families residing in Wayne County. The population density was 85 people per square mile (33/km<sup>2</sup>). There were 19,107 housing units at an average density of 38 per square mile (15/km<sup>2</sup>). The racial makeup of the county was 98.79 percent white, with other races making up less than two percent of the county population.

There were 17,239 households out of which 31.20 percent had children under the age of 18 living with them, 59.20 percent were married couples living together, 10.80 percent had a female householder with no husband present, and 26.60 percent were non-families. About one-fourth of all households were made up of individuals and 11.10 percent had someone living alone who was 65 years of age or older. The average household size was 2.48 and the average family size was 2.92.

In Wayne County, the age range of the population was diverse with 23.40 percent under the age of 18, 8.70 percent from 18 to 24 years, 27.70 percent from 25 to 44 years, 25.30 percent from 45 to 64 years, and 14.90 percent were 65 years of age or older. The median age was 38 years.

The median income for a household in the county was \$27,352, and the median income for a family was \$32,458. Males had a median income of \$31,554 versus \$20,720 for females. The per capita income for the county was \$14,906. About 16.20 percent of families and 19.60 percent of the population were below the poverty limit, including 25.50 percent of those under age 18 and 15.20 percent of those age 65 or over.

According to the US Bureau of Labor Statistics, the March 2008 unemployment rate for Wayne County was five percent.

#### **3.9.2 Displacements and Relocations**

A potential of four occupied residences could be impacted as a result of the Build Alternative. Other properties may have minor impacts. All relocations will follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The Build Alternative will not impact any businesses or community facilities since none are present within the project area.

The No-Build Alternative will not displace any residences, businesses or community facilities.

#### **3.9.3 Environmental Justice**

Executive Order 12898 (EO 12898), Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations was established in 1994 as the formal federal policy on environmental justice. EO 12898 requires that federal agencies consider and address disproportionately high and adverse environmental effects of

proposed federal projects on minority and low-income populations. There are no minority or low income populations present in the project area or in the immediate vicinity. Therefore, neither the Build Alternative nor the No-Build Alternative will impact environmental justice populations.

### **3.9.4 Economic Impacts**

The basic purpose of the Prichard Intermodal Development Site Project is economic development (i.e., employment). In its 2007 study of the economic development potential of an intermodal port situated on the Heartland Corridor, the WVPPA found that development of such a port in the vicinity of Prichard, West Virginia would generate a net increase of between 700 and 1,000 jobs and a statewide benefit of \$47-69 Million (Gross State Product Impact) by 2025 (June, 2007). Complete analysis and details of the Prichard Intermodal Development Site's projected economic and employment benefits are present in the *Economic and Market Analysis for an Inland Intermodal Port* (September, 2007).

Therefore, the only socioeconomic impacts from the Prichard Intermodal Development Site are overall positive. The No-Build Alternative will not provide benefits to support the local economy.

### **3.10 Hazardous and Toxic Materials/Waste**

A Phase I Environmental Site Assessment (ESA) was completed for the project area in September 2011. This report is located in Appendix C. The Phase I ESA included reconnaissance of the project area and adjoining properties, interviews, and review of historical records and regulatory databases in an effort to identify evidence of recognized environmental conditions that may impact the property.

Recognized environmental conditions (REC) were identified on the project area. A significant quantity of containers of unknown or hazardous substances and unknown or petroleum products were observed in or around the barns associated with the farmstead in the central and southern portions of the site. It was concluded that surface contamination is possible in the vicinity of the barns.

The northeast portion of the property was utilized as a coal processing station for at least 30 years beginning in or around 1923. Facilities such as this likely utilized petroleum products and other organic compounds during periods of relatively no environmental regulations or controls. However, no obvious evidence of contamination was observed in this area or the immediate vicinity during site investigation. Additionally, interviews conducted during this assessment indicate that the area was primarily used for water storage and softening for use in steam trains. Therefore, the former coal processing station is considered to represent a historic REC with regard to the proposed site.

A substantial amount of debris consisting of automotive parts, agriculture equipment, household debris, and scrap metal was observed in the vicinity of the residence and barns in the central and southern portion of the property. No stressed vegetation, free product, or other obvious evidence of contamination were observed in the vicinity of this debris.

No recognized environmental conditions were identified off-site at adjacent properties.

The Build Alternative has the potential to impact hazardous waste material. Based on investigations presented in the Phase I ESA (September 2011) (Appendix C), the following items are recommended for the Build Alternative:

- Based upon the known sources at this time and the soil conditions in the project vicinity, contamination related to the agricultural barns is likely limited to the upper soil strata. Following acquisition of property for the intermodal facility, additional characterization should occur to confirm or deny the presence of surface level contamination and determine the extent of any contamination. Construction documents and final grading procedures will account for the potential for localized surface soil contamination in and around agricultural sheds, barns, and equipment areas. If necessary at the time of construction, mitigation measures for the treatment and/or disposal of impacted soils will be performed. Impacted soils, if encountered, will be handled in accordance with state and federal solid waste regulations.
- The historical REC associated with the former coal processing station on the northeast should be noted and special care should be taken during additional excavation activities in this area. If excavation in this area uncovers equipment, structures, odors, staining, or items of environmental concern, the area should be additionally investigated for the presence of contamination. Additional investigation may include surface and subsurface soil sampling, groundwater sampling, and laboratory analysis to confirm or deny the presence of contamination.
- Debris, equipment, and materials associated with the residences, barns, and dumping area along the Big Sandy River should be handled, disposed and/or recycled in accordance with federal and state solid waste regulations. If, during demolition and disposal of these items, areas of environmental concern are discovered, the area should be additionally investigated to confirm or deny the presence of contamination.

The No-Build Alternative will not impact hazardous and toxic materials/waste.

### **3.11 Traffic**

The proposed intermodal facility is located 13 miles south of I-64. The primary road which connects the project area to I-64 is US 52. US 52 from Prichard to I-64 is generally a two-lane rural arterial with 12-foot lanes and seven-foot graded shoulders. This section of US 52 is on the National Highway System and is included in the Coal Resource Transportation System, a coal haul road with no bridge restrictions.

US 52 has been realigned to a new four-lane section through Prichard as part of the Tolsia Highway Project. Based on the 1995 Tolsia Highway Environmental Impact Statement (EIS) traffic analysis, US 52 was a two-lane highway facility that in 1995 functioned at a Level of Service (LOS) of E and was projected to degrade to a LOS of F by 2011. The 2007 Economic and Market Analysis report states that Year 2004 average annual daily traffic (AADT) for US 52 through Prichard ranged from 5,000 to 5,300 vehicles per day. This is comparable to the traffic that was reported in the 1995 Tolsia Highway Final EIS. The LOS E reported for US 52 was due to high percentage of trucks, many “no passing zones,” and the rolling/mountainous terrain.



An alternate route to US 52 is US 23 in Kentucky which currently has no direct access across the Big Sandy River from Prichard. Currently, access to US 23 from Prichard requires an 11-mile detour to the south where there is a bridge from Fort Gay, WV to Louisa, Kentucky. The Year 2004 AADT values for this section of US 52 range from 10,000-14,000 vehicles per day.

The project area is connected to I-64 and the major markets in Kanawha and Cabell counties in West Virginia, and to Boyd County in Kentucky by US 52. It is anticipated that the 13 miles of US 52 between the project area and I-64 will support increased traffic volumes as a result of the intermodal terminal. In addition to the diverted units from intermodal transport (87,000-99,600 annually), this route will also support truck movements for operations and maintenance of the terminal and terminal equipment, and the movement of empty trucks repositioning to the project area for outbound loading. Altogether, this is likely to represent approximately 400 additional trucks per day (WVPPA, 2007) for the Build Alternative. The additional volume of trucks will make US 52's current poor Level of Service E worse. However, WVDOH is planning to construct a new four-lane US 52 facility known as the Tolsia Highway. Until the new facility is completed to Prichard, the current two-lane, approximately eight-mile section of US 52 between I-64 and Prichard will continue to suffer congestion issues, with either the No-Build Alternative or Build Alternative.

### **3.12 Construction**

Construction of the intermodal facility will occur in phases. The first phase is scheduled to begin in 2012 and will include clearing and filling. Portions of the project area will be raised above the 100-year floodplain and to match the elevations of mainline track for connection of the pad, storage, and switching tracks associated with the proposed intermodal terminal. It is estimated that portions of the site will need to be filled with approximately 8 to 20 feet of fill material to raise the site above the base flood elevation.

The second phase of construction is scheduled for 2015. In this phase, access to the site from Big Sandy River Road will be constructed, which includes the access road, approaches and overpass across the railroad tracks.

## **4.0 Commitments and Mitigation**

Specific mitigation measures are being developed in response to impacts of the Build Alternative. The main objective of the mitigation strategies is to minimize unavoidable impacts to sensitive resources. Avoidance, minimization, and mitigation measures of impacts have been considered throughout the project development process. Furthermore, the development of minimization and mitigation strategies will continue through final design of the intermodal facility. To date, the design of the Build Alternative includes a number of mitigation measures, which are discussed in this section.

### **4.1 Air Quality**

The Prichard Intermodal Development Site is listed in the HIATS 2035 Long Range Transportation Plan as an unfunded project and will be analyzed for conformity prior to the start of construction.

## **4.2 Surface Water**

A "Section 404/401 Joint Individual Permit" will be required from the US Army Corps of Engineers and the West Virginia Department of Environmental Protection. In addition, a "Stream Activity Permit" will be required from the state Public Lands Corporation. Mitigation measures for stream and wetland impacts will be developed during the Section 401 and 404 permit process.

## **4.3 Threatened and Endangered Species**

Tree clearing will be conducted between November 15 and March 31 to prevent the direct take of Indiana bats.

## **4.4 Cultural Resources**

Cultural resource investigations to determine the presence and effects on archaeological and architectural resources will be conducted as described in the Programmatic Agreement executed in September 2011 and according to 36 CFR 800. Any cultural resources found to be present will be dealt with as required by the federal and state law and regulations. If a significant historic site is identified upon which the proposed project has an adverse effect that during the pre-construction or construction phases of the project that further coordination with the Federal Highway Administration (FHWA) will be completed.

## **4.5 Hazardous and Toxic Materials/Waste**

Following acquisition of property for the intermodal facility, additional characterization should occur to confirm or deny the presence of surface level contamination and determine the extent of any contamination. Construction documents and final grading procedures will account for the potential for localized surface soil contamination in and around agricultural sheds, barns, and equipment areas. If necessary at the time of construction, mitigation measures for the treatment and/or disposal of impacted soils will be performed. Impacted soils, if encountered, will be handled in accordance with state and federal solid waste regulations.

Debris, equipment, and materials associated with the residences, barns, and dumping area along the Big Sandy River will be handled, disposed and/or recycled in accordance with federal and state solid waste regulations. If, during demolition and disposal of these items, areas of environmental concern are discovered, they will be additionally investigated to confirm or deny the presence of contamination.

The historical recognized environmental conditions associated with the former coal processing station on the northeast should be noted and special care should be taken during additional excavation activities in this area. If excavation of the former coal processing station on the northeast portion of the project area occurs additional investigation for the presence of contamination should be conducted. A soil management and/or remediation plan will be developed, if necessary.

## **5.0 Public Involvement**

### **5.1 Public Meeting**

There will be a minimum 30-day comment period following approval and circulation of this Environmental Assessment (EA) during which the public and agencies will be given the opportunity to comment on the alternatives, the potential impacts, and proposed mitigation measures. The EA will be made available to the public in hard copy format at a number of accessible locations. The document will also be made available electronically in a common format (PDF) on the West Virginia Department of Transportation's website found on <http://www.transportation.wv.gov>. State and federal agencies will receive a Notice of Availability for the EA.

During the public comment period a workshop public meeting will be held to discuss the project and answer questions. Informational displays will be used to illustrate the build alternative and important aspects of the project. The public will be encouraged to provide written and/or verbal comments. The workshop public meeting will be advertised through notices in newspapers and website postings.

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## Figures

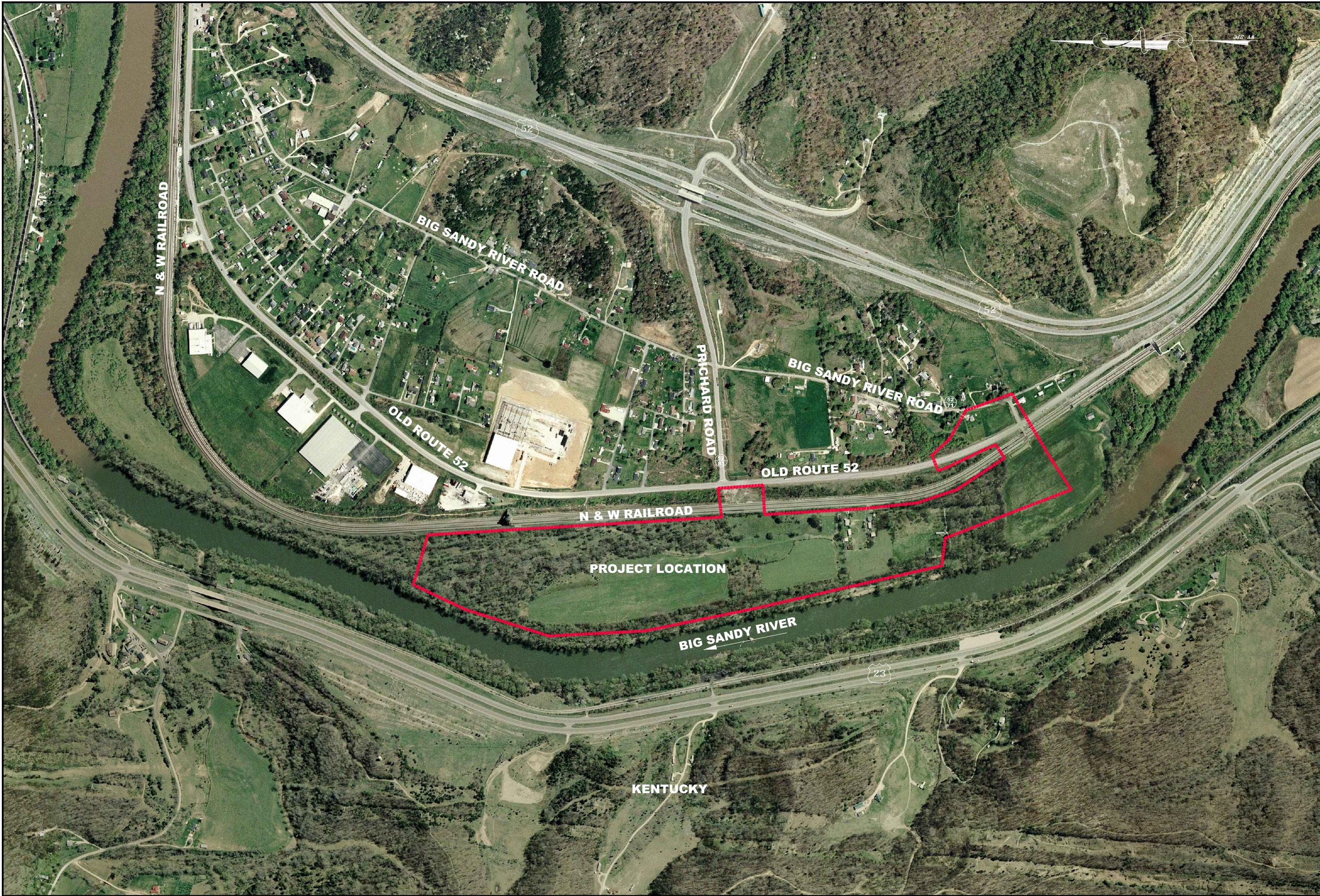


HEARTLAND CORRIDOR OVERVIEW MAP

Source: <http://www.thefutureneedsus.com/latest-news/media/category/heartland-corridor/#>

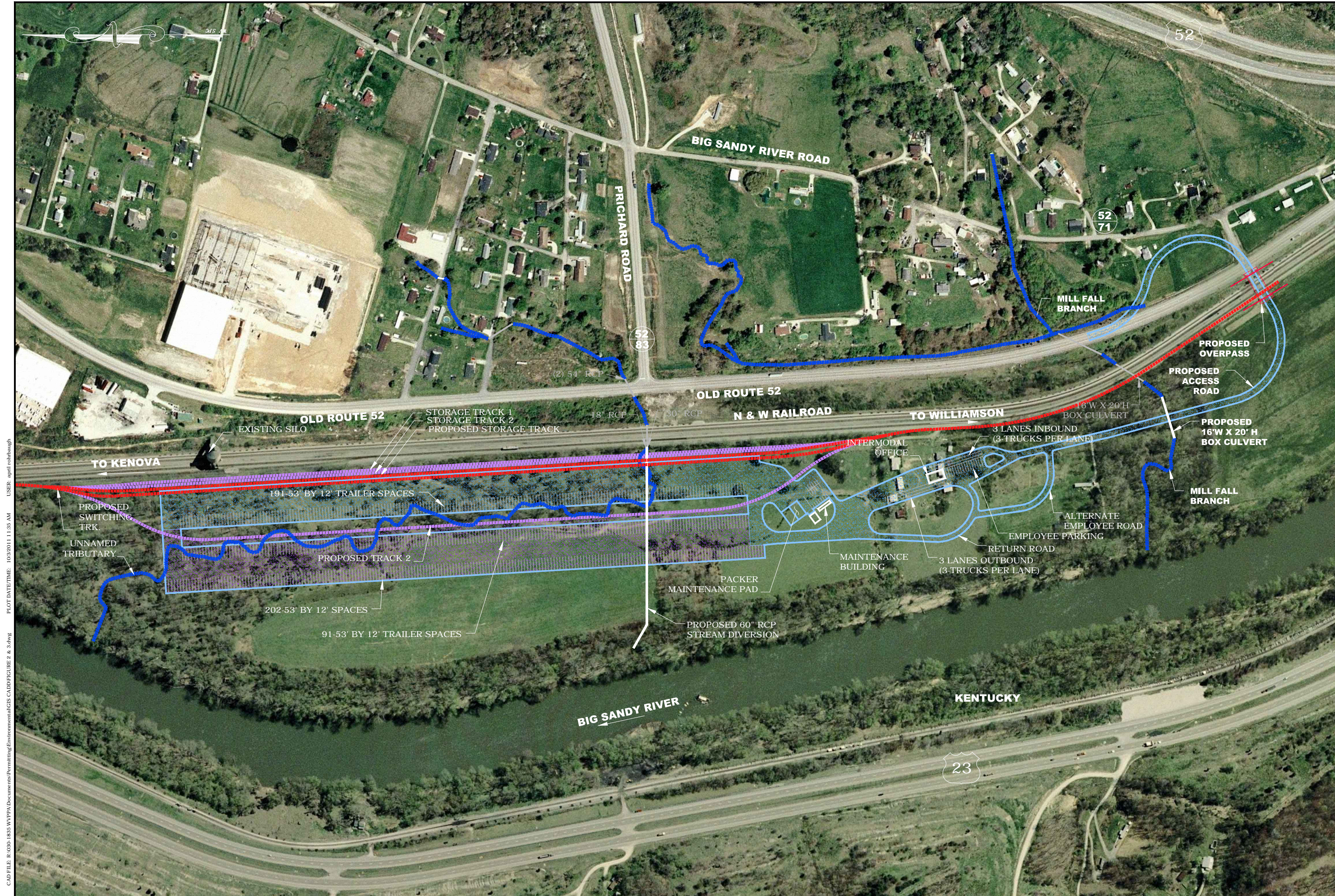
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<b>THRASHER</b> ENVIRONMENTAL CONSULTING & FIELD SERVICES 30 COLUMBIA BOULEVARD - CLARKSBURG, WV 26301		PHONE (304) 624-1108 FAX (304) 624-7831	
W.V. PUBLIC PORT AUTHORITY PRICHARD, W.V. WAYNE COUNTY HEARTLAND CORRIDOR SYSTEM FIGURE 1			
SHEET No.			
1			



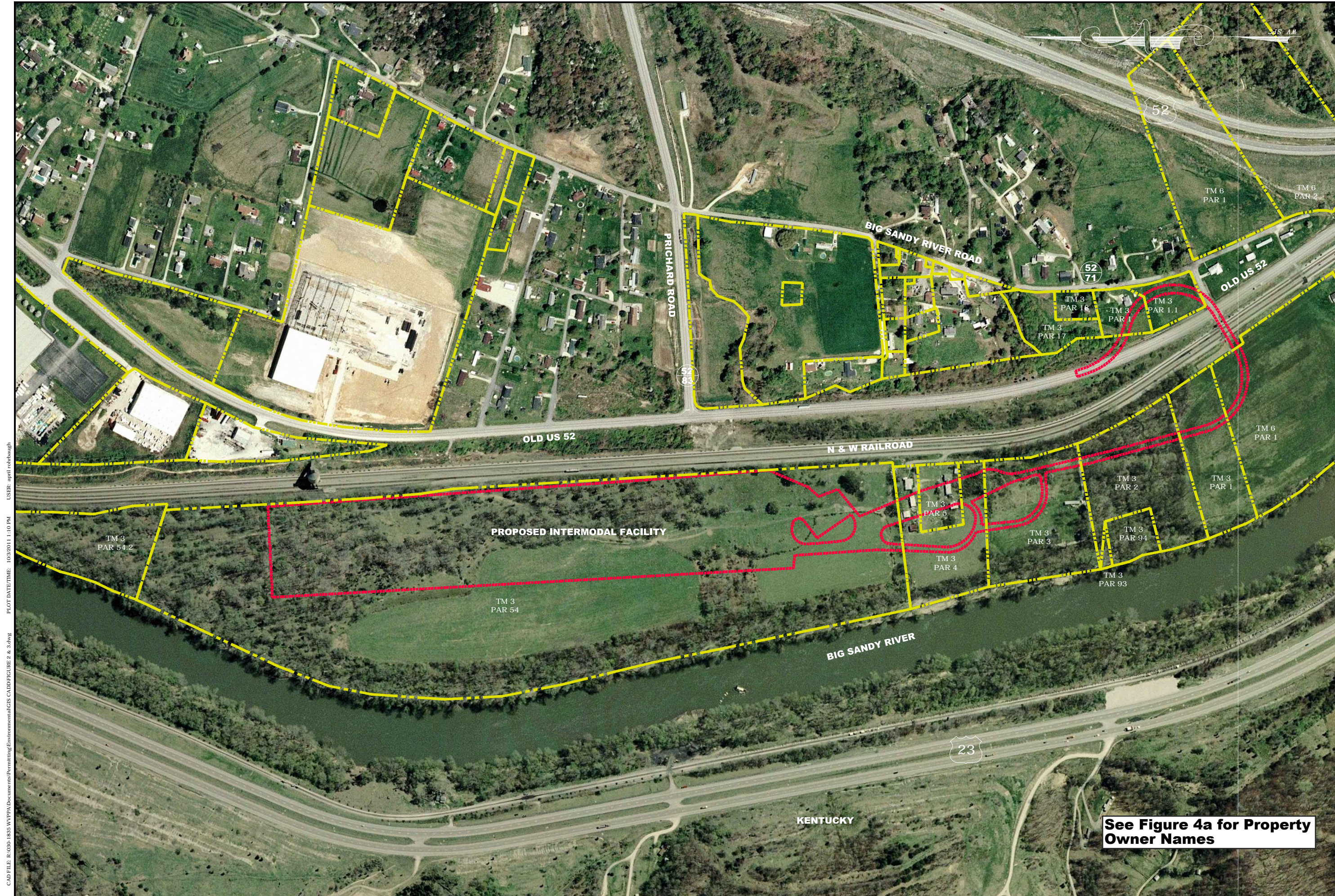
W.V. PUBLIC PORT AUTHORITY PRICHARD, W.V. WAYNE COUNTY PROJECT AREA FIGURE 2				PHONE (304) 624-1108 FAX (304) 624-7851 CIVIL & ENVIRONMENTAL CONSULTING/FIELD SERVICES 30 COLUMBIA BOULEVARD - CLARKSBURG, WV 26301
SHEET No. <b>2</b>		SURVEY DATE: _____ DRAWN BY: _____ CHECKED: _____ APPROVED: _____ LAYOUT TAB: FIGURE 2 NO. BY DATE DESCRIPTION THE INFORMATION CONTAINED HEREIN IS THE SOLE PROPERTY OF THRASHER ENGINEERING INC. REPRODUCTION OF THESE DOCUMENTS IN WHOLE OR IN PART, FOR ANY REASON WITHOUT PRIOR WRITTEN PERMISSION, IS STRICTLY PROHIBITED. COPYRIGHT © 2011 THRASHER ENGINEERING INC.		PROJECT No. <b>030-1835</b>





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<p><b>THRASHER</b>          ENVIRONMENTAL CONSULTING &amp; FIELD SERVICES          30 COLUMBIA BOULEVARD - CLARKSBURG, WV 26301</p> <p>PHONE: (304) 624-1108          FAX: (304) 624-7851</p>	<p>SCALE: _____          DRAWN BY: _____ DATE: _____          CHECKED: _____ DATE: _____          APPROVED: _____ DATE: _____</p> <p>LAYOUT TAB: FIGURE 3          NO. BY DATE          DESCRIPTION</p> <p>THE INFORMATION CONTAINED HEREIN IS THE SOLE PROPERTY OF THRASHER ENGINEERING, INC. REPRODUCTION OF THESE DOCUMENTS IN WHOLE OR IN PART, FOR ANY REASON WITHOUT PRIOR WRITTEN PERMISSION, IS STRICTLY PROHIBITED.</p> <p>030-1835</p>	<p>W.V. PUBLIC PORT AUTHORITY          WAYNE COUNTY, PRICHARD, W.V.          PROPOSED DESIGN OF THE          PROPOSED INTERMODAL FACILITY          FIGURE 3</p> <p>SHEET No.  <b>3</b></p>
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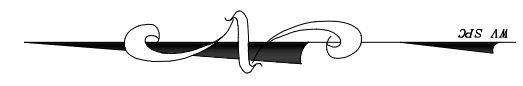
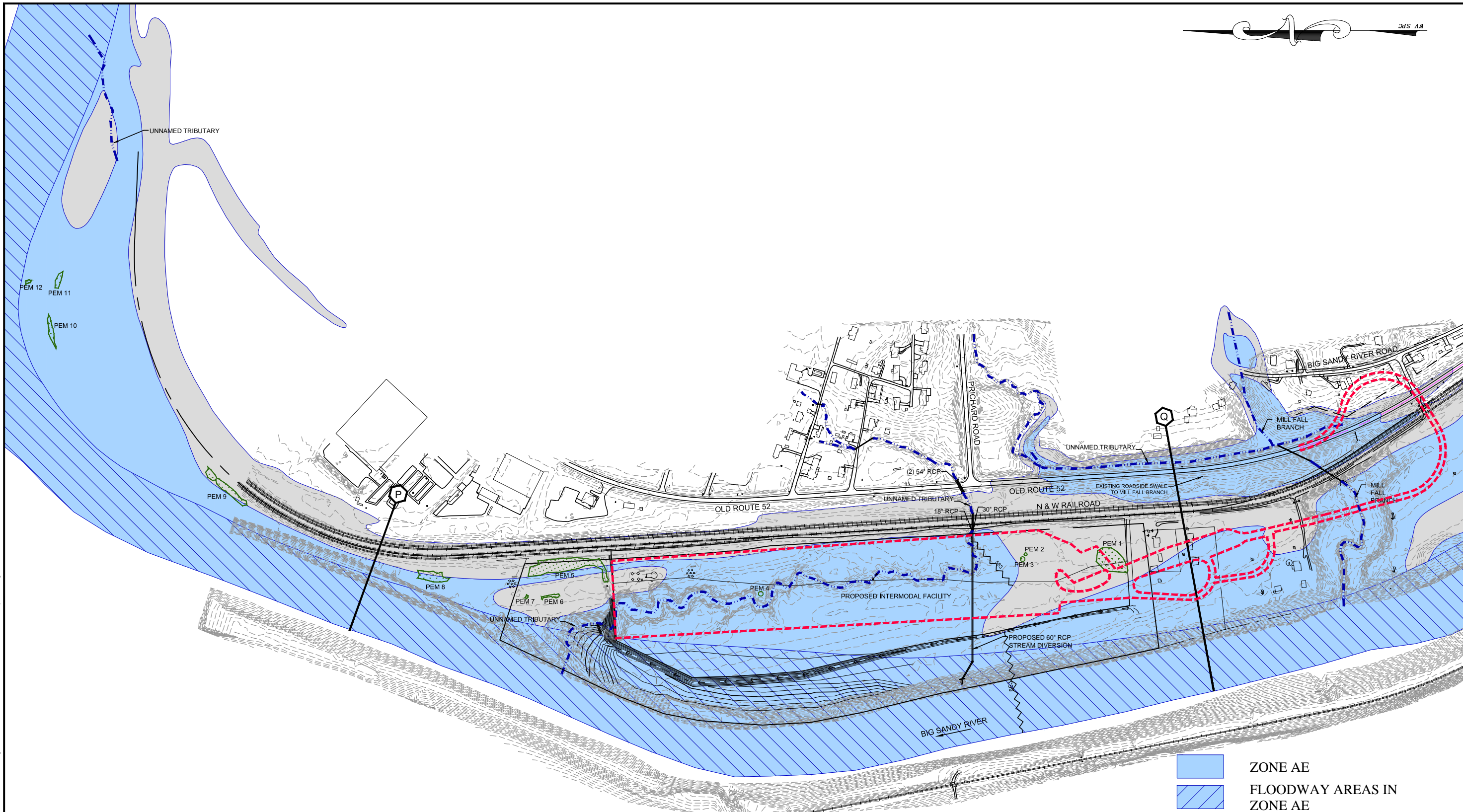
**See Figure 4a for Property Owner Names**

<b>THRASHER</b> <small>ENGINEERING &amp; CONSULTING SERVICES</small>		<small>PHONE</small> (304) 624-1108	<small>EMAIL</small> info@thrasher.com	<small>WEBSITE</small> www.thrasher.com	<small>FIELD BOOK NO.</small> 030-1835	<small>PROJECT NO.</small> 030-1835	
<b>W.V. PUBLIC PORT AUTHORITY</b> PRICHARD, W.V. WAYNE COUNTY		<b>LAND USE &amp; TAX MAP INFORMATION</b> FIGURE 4				<small>SCALE:</small> AS SHOWN	
SHEET No. <b>4</b>		<small>DATE:</small> 10/29/2011		<small>DATE:</small> 10/29/2011		<small>DATE:</small> 10/29/2011	
<small>DESIGNED BY:</small> [Name]		<small>CHECKED BY:</small> [Name]		<small>APPROVED BY:</small> [Name]		<small>NO. BY DATE:</small> [Info]	
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**Figure 4A. Land Use and Tax Map Information - Property Owners**

<b>TAX MAP</b>	<b>PARCEL</b>	<b>OWNER</b>	<b>DEED BOOK</b>	<b>PAGE</b>
3	1	Ronald C. Viers	584	405
3	1.1	Ernest & Ethel Earl	584	405
3	2	Ronald C. Viers	WB39	356
3	3	Ronald K & Lisa M. Senters	602	638
3	4	Dwight Dillon & Scott Cutler Dillon	470	52
3	5	Albert & Dwight Dillon	475	725
3	16	Paula Roop	622	270
3	17	James G. & Leatha D. Hundley	637	99
3	54	Norfolk and Western Railway Co.	158	424
3	54.1	Virginia Holding Company	135	16
3	93	Jack D. Capeheart, ET AL	WB36	729
3	94	Jack D. Capeheart, ET AL	WB36	729
6	1	Ronald C. Viers	WB39	356

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NOTE: FLOOD ZONES AND ELEVATIONS BASED ON FIRM COMMUNITY-PANEL NUMBER 540200 0182B, EFFECTIVE DATE SEPTEMBER 18, 1987

**FEMA FLOOD ZONE DEFINITIONS:**

- ZONE AE - SPECIAL FLOOD HAZARD AREAS INUNDATED BY 100-YEAR FLOOD WITH BASE FLOOD ELEVATIONS (BFE) DETERMINED BY FEMA.
- ZONE X - AREAS OF 500-YEAR FLOOD; AREAS OF 100-YEAR FLOOD LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 100-YEAR FLOOD.

	ZONE AE
	FLOODWAY AREAS IN ZONE AE
	ZONE X
	BFE LINE
	FEMA CROSS SECTION
	STREAM CHANNEL
	WETLANDS

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CIVIL, ENVIRONMENTAL CONSULTING, FIELD SERVICES		301 COLUMBIA BOULEVARD - CLARKSBURG, WV 26301	
W.V. PUBLIC PORT AUTHORITY PRICHARD, W.V. WAYNE COUNTY FLOODPLAIN, STREAMS & WETLANDS FIGURE 5			
SHEET No. 5			

**Appendix A**  
**Coordination Letters**



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

West Virginia Field Office  
694 Beverly Pike  
Elkins, West Virginia 26241

September 9, 2011



RECEIVED

SEP 12 2011

ENGINEERING DIVISION  
WV DOH

Mr. Gregory L. Bailey, P.E., Director  
West Virginia Department of Transportation  
Division of Highways  
1900 Kanawha Boulevard East  
Building 5, Room 110  
Charleston, West Virginia 25305-0430

Re: Prichard Intermodal Facility, Wayne County, West Virginia

Dear Mr. Bailey:

This responds to your letter dated September 7, 2011, regarding changes in the proposed scope of development of the Prichard Intermodal Facility in Wayne County, West Virginia. These comments are provided pursuant to the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531, *et seq.*).

One Federally-listed endangered species, the Indiana bat (*Myotis sodalis*) may be present within the project area and could potentially be impacted by the project. The proposed action will remove approximately 69 acres of potentially suitable Indiana bat summer foraging and roosting habitat. In your correspondence, you indicated that in order to avoid direct take of the Indiana bat, all forested habitat within the project area will be cleared between November 15 and March 31, when Indiana bats are in hibernation. You have conducted an assessment of the amount of potentially suitable Indiana bat summer habitat within a two-mile buffer around the center-point of the proposed action. Before project clearing, 6,190 acres of potentially suitable forested habitat exist within this approximately 8,040-acre action area. After project construction, 6,121 acres of potentially suitable forested habitat will remain within this action area. Based on this extensive acreage of forest, we have concluded that sufficient remaining suitable habitat should be available to any Indiana bats that may use the action area, and the proposed action will not appreciably affect the availability of suitable summer habitat within the action area. The action area was surveyed for caves and abandoned mine portals and none were found on the property. Therefore, no Indiana bat winter hibernation habitat will be affected by the project.

Based on the information that has been provided to us, the Service has concluded that the project may affect, but is not likely to adversely affect any Federally-listed endangered and threatened

Mr. Gregory L. Bailey, P.E., Director  
September 9, 2011

2

species. Therefore, no biological assessment or further section 7 consultation under the ESA is required with the Service. Should project plans change or amendments be proposed, or if additional information on listed and proposed species becomes available, or if new species become listed, this determination may be reconsidered. Please note that any permits issued for this project should include a requirement that all clearing of forested habitat within the project area be conducted between November 15 and March 31 when Indiana bats are in hibernation.

If you have any questions regarding this letter, please contact Barbara Douglas of my staff, at (304) 636-6586, Ext. 19, or at the letterhead address.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Carter".

Deborah Carter  
Field Supervisor



**WEST VIRGINIA DEPARTMENT OF TRANSPORTATION**

**Division of Highways**

**1900 Kanawha Boulevard East • Building Five • Room 110  
Charleston, West Virginia 25305-0430 • 304/558-3505**

**September 7, 2011**

**Ms. Deborah Carter  
US Fish and Wildlife Service  
694 Beverly Pike  
Elkins, West Virginia 26241**

**Dear Ms. Carter:**

**Proposed Prichard Intermodal Facility  
U350-52-10.85 05  
Wayne County**

**The West Virginia Public Port Authority (WVPPA) is proposing to develop an intermodal site on approximately 150 acres located in the vicinity of Prichard, West Virginia (see attached) location map. A letter was originally sent to your office on July 2, 2009, the scope of the project at that time was approximately 75 acres. Due to the changes in the project scope additional coordination with your office is required. The original letter and concurrence letter of 10/18/2010 are attached.**

**Construction of this project will require the removal of approximately 69 acres of mixed forest. Attached you will find a PRT analysis and a land use map that shows a two-mile buffer around the project location. The approximate number of forested acres within the 2-mile radius is 6,190. The number of acres left after the project has removed the approximate 69 acres will be 6,121(6,190-69= 6,121 acres). The project area has also been checked for any possible caves or mine portals and none were found. All tree clearing will occur within the winter months November 15<sup>th</sup> - March 31<sup>st</sup>.**

**As suggested by the USFWS West Virginia office we contacted the USFWS Kentucky office to find out if there were any known sites or caves across the state line from our project. The Kentucky office's Mr. Phil DeGarmo sent us the GIS layer for swarm zones in Kentucky. A map is included showing that the closest zone to our project is approximately 28.13 miles. Previous discussions with Jim Zelenak of the WV USFWS office made note that there are no known sites or caves within vicinity of the project area in West Virginia.**



**Page Two**  
**Deb Carter**  
**Prichard Intermodal Facility**

**Your comments on possible effects to Federally-listed threatened and endangered species are requested so that they may be included in our environmental assessment. Should you require additional information, please contact Traci Cummings, of our Environmental Section at (304) 558-9678.**

**Very truly yours,**

**Gregory L. Bailey, P.E.**  
**Director**  
**Engineering Division**

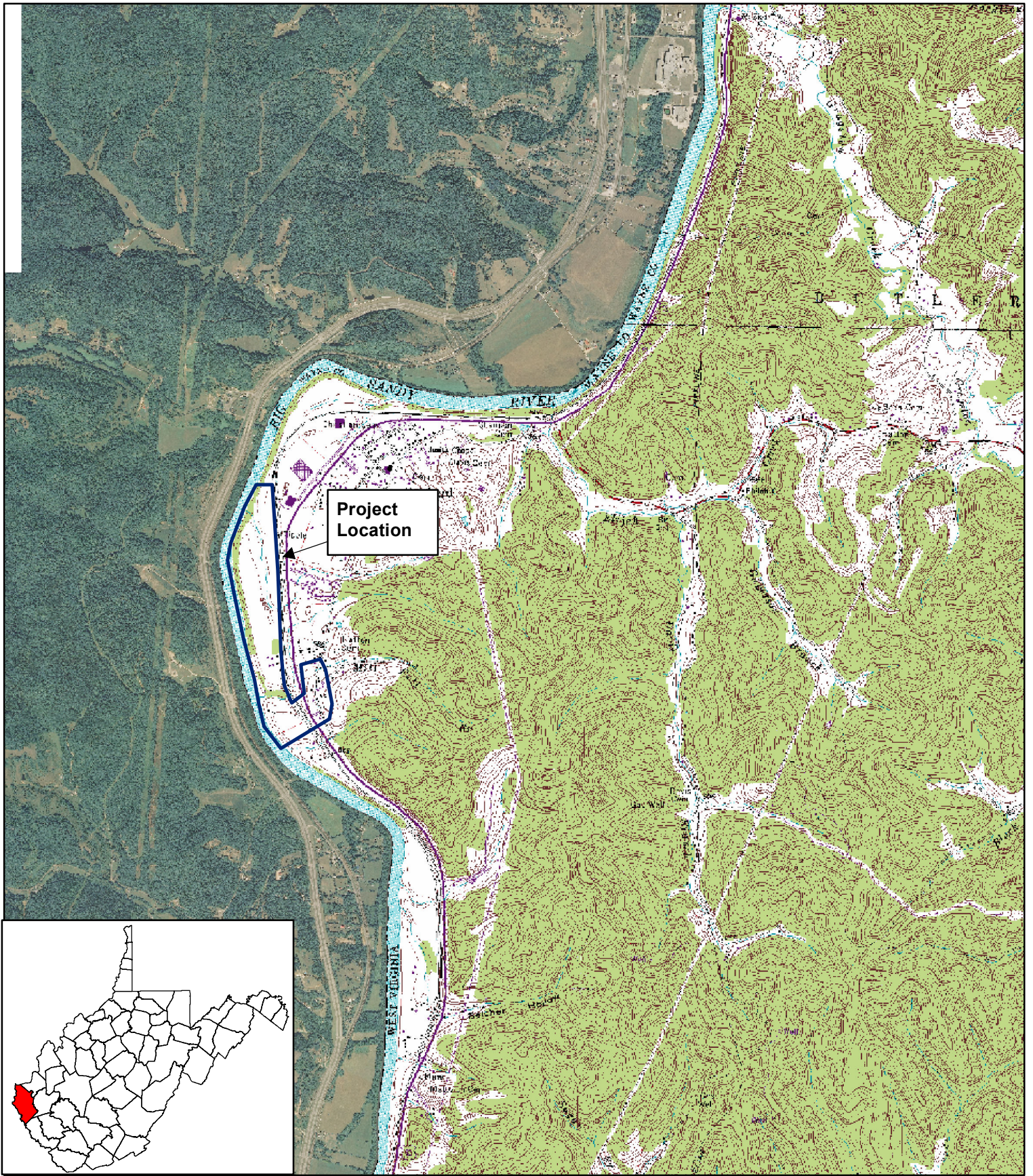
**By:**

  
**Ben L. Hark**  
**Environmental Section Head**

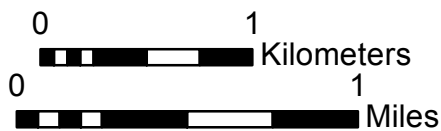
**GLB: H**

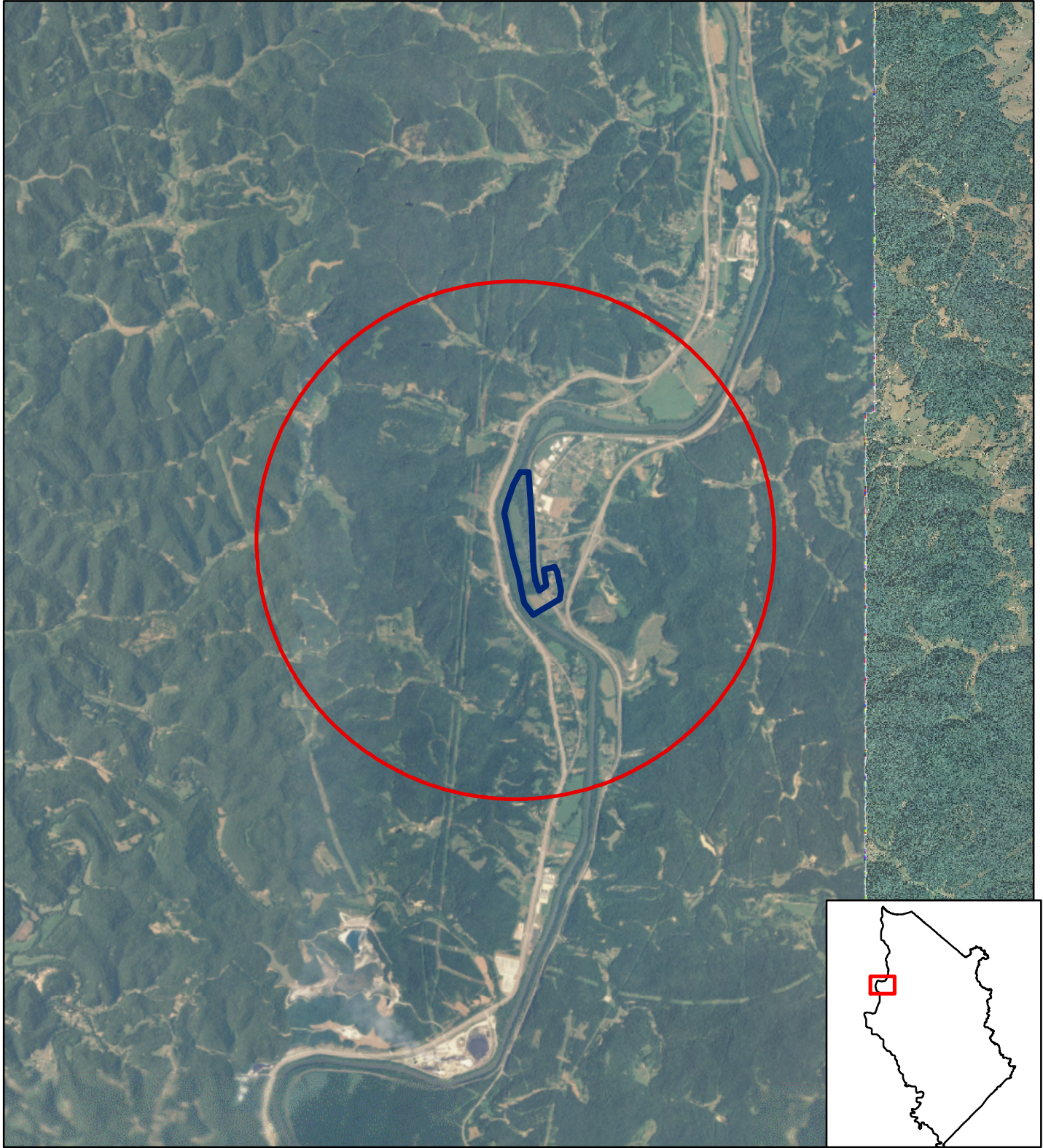
**Attachments**

**Bcc: DDE, (TC)**





**Proposed Prichard Intermodal Facility  
Wayne County  
State Project Number: U350-52-10.85 05**

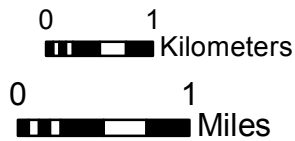


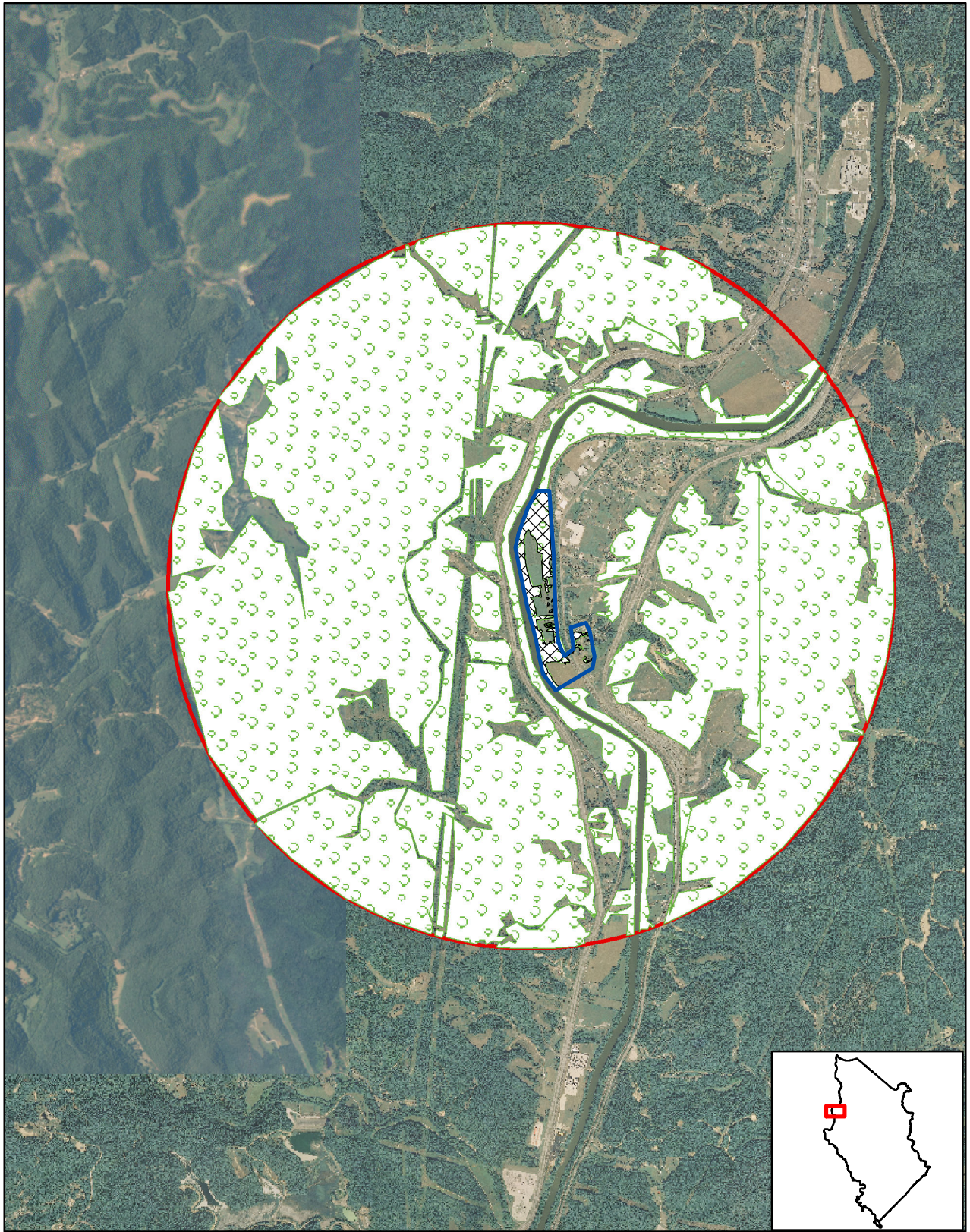


**Study Boundary Two Mile Radius  
Wayne County  
State Project Number: U350-52-10.85 05**

**Legend**

-  study\_boundary\_new
-  project\_location

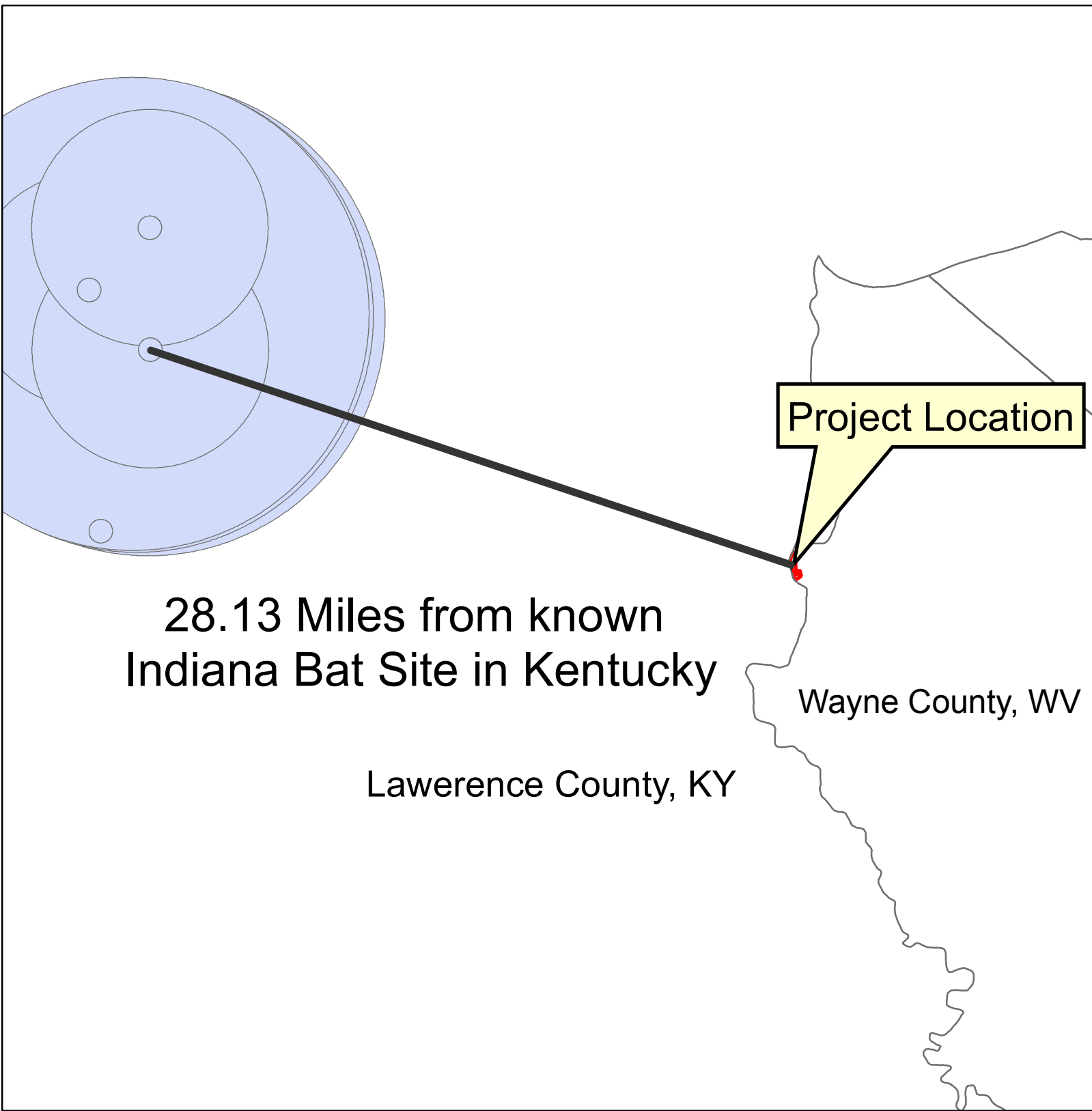




**PRT Analysis  
Wayne County  
State Project: U350-52-10.85 05**

Legend	
	Project Area
	Trees Within Project Area
	Roosting Area
	Study Boundary

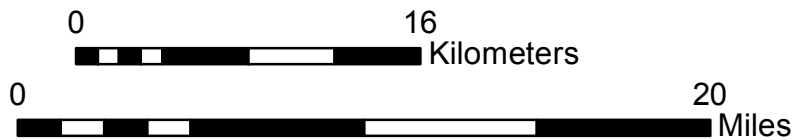




**Legend**

- census\_counties2000
- MYSO\_SwarmingBuffers2011
- Trees Within Project Area
- Study Boundary

**PRT Analysis  
Wayne County  
State Project: U350-52-10.85 05**





RECEIVED  
MAY 15 2009  
MICHAEL BAKER  
CORPORATION

**DIVISION OF NATURAL RESOURCES**

**Wildlife Resources Section**

**Operations Center**

**P.O. Box 67**

**Elkins, West Virginia 26241-3235**

**Telephone (304) 637-0245**

**Fax (304) 637-0250**

**May 12, 2009**

**Joe Manchin III**  
**Governor**

**Frank Jezioro**  
**Director**

Mr. Charles A. Cook  
Michael Baker Jr., Inc.  
5088 West Washington Street  
Charleston, WV 25313

Dear Mr. Cook:

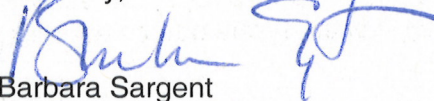
We have reviewed our files for information on rare, threatened and endangered (RTE) species and sensitive habitats for the area of the proposed intermodal facility in Wayne County, WV.

We have no known records of any RTE species or sensitive habitats within the project area; however, the Big Sandy River is a high quality stream. The Wildlife Resources Section knows of no surveys that have been conducted in the area for rare species or rare species habitat. Consequently, this response is based on information currently available and should not be considered a comprehensive survey of the area under review.

The information provided above is the product of a database search and retrieval. This information does not satisfy other consultation or permitting requirements for disturbances to the natural resources of the state. If your project will directly impact the waters of the state or cause a "take" of fish and/or wildlife, consultation may be required. Requests for WV wildlife agency consultation should be directed to Mr. Roger Anderson at the address given in the letterhead or by email at rogeranderson@wvdnr.gov. Database requests for information on RTE species and sensitive habitats should still be directed to me.

Thank you for your inquiry, and should you have any questions please feel free to contact me at the above number, extension 2048. Enclosed please find an invoice.

Sincerely,

  
Barbara Sargent  
Environmental Resources Specialist  
Wildlife Diversity Program

enclosure

S:\Monthly\Barb\Invoices\Baker.doc



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Highways

1900 Kanawha Boulevard East • Building Five • Room 110  
Charleston, West Virginia 25305-0430 • 304/558-3505

Joe Manchin III  
Governor

FILE

July 2, 2009

Ms. Deborah Carter  
US Fish and Wildlife Service  
694 Beverly Pike  
Elkins, West Virginia 26241

Dear Ms. Carter:

Proposed Prichard Intermodal Facility  
Wayne County

The West Virginia Public Port Authority (WVPPA) is proposing to develop an intermodal site on approximately 75 acres located in the vicinity of Prichard, West Virginia (see attached). As the NEPA consultant for the WVPPA, Michael Baker Jr., INC. is preparing environmental records for the properties associated with a proposed intermodal facility. Michael Baker Jr., INC. mailed a Section 7 Consultation letter to the United States Fish and Wildlife Service on April 30, 2009. The letter (attached) was concerning the presence of rare, threatened, and/or endangered species located within the Prichard Intermodal Facility Project Area (figured attached). Sixty calendar days passed, and no response letter was received. Michael Baker Jr., INC. mailed another letter on June 30, 2009 (attached) requesting a letter concurring that No Effect will result to any RT&E species.

This letter is on the behalf of Michael Baker Jr., INC. requesting a letter concurring that the only RT&E species in Wayne County, WV is the Indiana Bat (*Myotis sodalis*) and that the proposed intermodal facility which will not be adversely effecting any known RT&E species. The project location is shown on the USGS PRICHARD quadrangle map.

Your comments on possible effects to Federally-listed threatened and endangered species are requested so that they may be included in our environmental studies. Please fill out and return the attached from to our office at your earliest convenience. Should you require additional information, please contact Traci Cummings, of our Environmental Section at (304) 558-9678 or Alex Cook, of Michael Baker Jr., INC. at (304) 769-0821.

Very truly yours,

Gregory L. Bailey, P.E.  
Director  
Engineering Division

By: *Ben L. Hark*  
Ben L. Hark  
Environmental Section Head

GLB: Hh

Attachments

Bcc: DDE, (TC), (Alex Cook-Michael Baker Jr., INC.)

# US Fish and Wildlife Service Project Review Form

**Re: Proposed Prichard Intermodal Facility**  
**DATE: July 2, 2009**

**The subject project will not impact Federally-listed species; therefore, no Biological Assessment or further Section 7 consultation pursuant to the Endangered Species Act (87 STAT 884, as amended; 16 U.S.C. et seq.) is required with the US Fish and Wildlife Service.**

\_\_\_\_\_  
**Reviewer's signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Field Supervisor**

\_\_\_\_\_  
**Date**

**DOH Contact: Traci Cummings**  
**Phone: (304)558-9678**

**Michael Baker Jr., INC Contact: Alex Cook**  
**Phone: (304) 769-0821**

**Please return this form to the following address:**

**West Virginia Division of Highways**  
**Engineering Division, Environmental Section**  
**Building 5, Room 450**  
**1900 Kanawha Boulevard, East**  
**Charleston, West Virginia 25305**



**Baker**

**Michael Baker Jr., Inc.**

A Unit of Michael Baker Corporation

June 30, 2009

5088 West Washington Street  
Charleston, West Virginia 25313

(304) 769-0821  
FAX (304) 769-0822

Ms. Sheila Davis  
U.S. Fish and Wildlife Service  
West Virginia Field Office  
694 Beverly Pike  
Elkins, West Virginia 26241

Re: RT&E Species

Dear Ms. Davis:

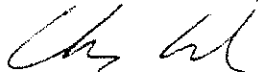
On behalf of the West Virginia Public Port Authority (WVPPA), Michael Baker Jr., Inc. mailed a Section 7 Consultation letter to the United States Fish and Wildlife Service on April 30, 2009. The letter (attached) was concerning the presence of rare, threatened, and/or endangered species located within the Prichard Intermodal Facility Project Area (figure attached). Sixty (60) calendar days have passed since the initial consultation letter, and no response to that letter was received.

Due to the time elapsed since the initial consultation letter was mailed, and because there was no response received, Baker is assuming the only species of concern is the Indiana bat (*Myotis sodalis*). This assumption is also based on our coordination with the West Virginia Department of Natural Resources, a field review, and the known occurrence of RT&E species in Wayne County, WV. The Proposed Prichard Intermodal Facility consists mostly of pasture with a few small forested areas. The cumulative forested area within the Project Area is less than 17 acres. Therefore, Baker concludes it would be highly unlikely that sufficient habitat for the Indiana bat is present and the construction of the proposed project would result in No Effect to the species.

Baker requests a letter concurring with the No Effect result on any RT&E species. Your efforts to assist in this study are greatly appreciated.

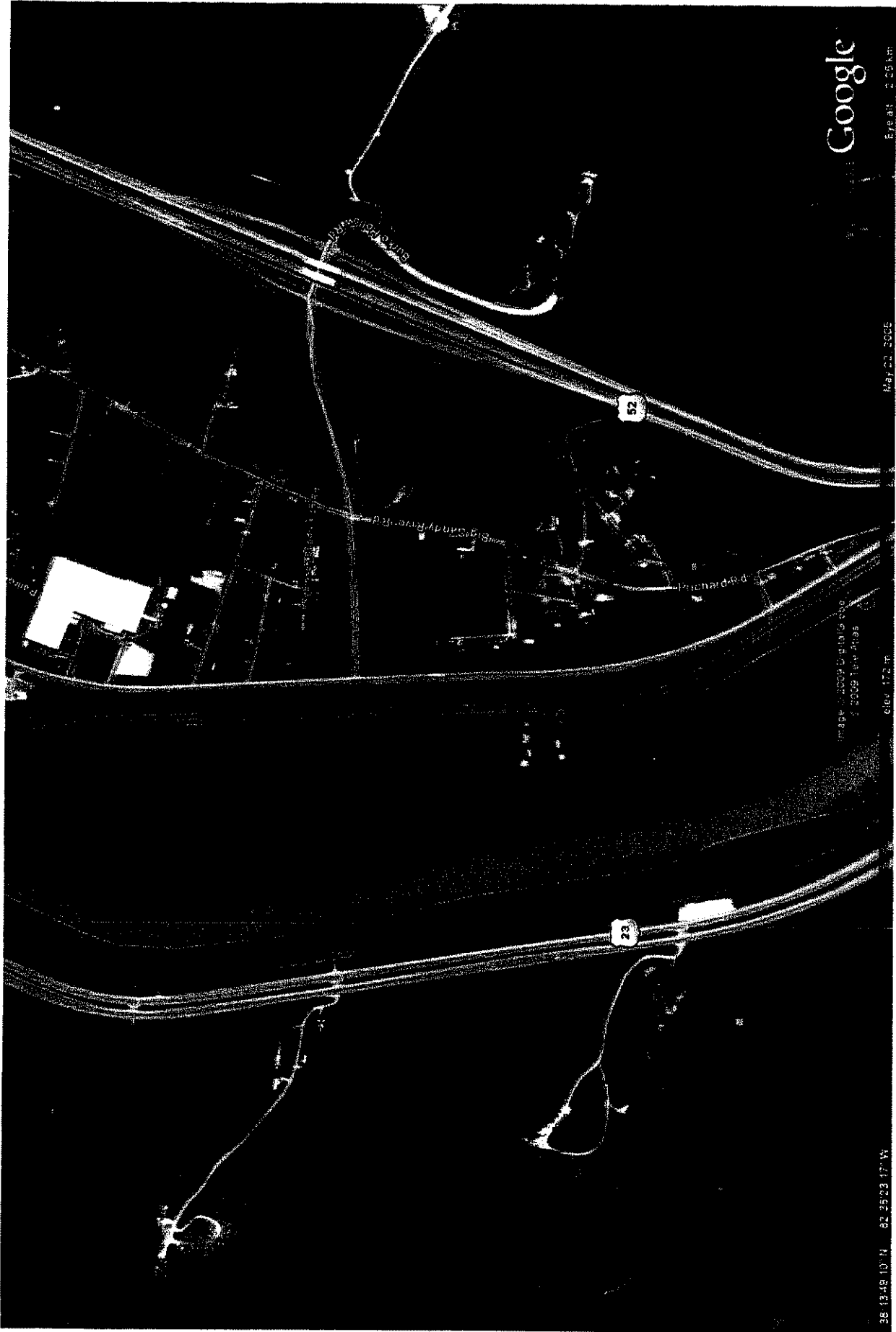
Sincerely,

MICHAEL BAKER JR., INC.



Charles A. Cook,  
Environmental Associate

Enclosures: 2



Google

May 22, 2008

May 22, 2008

elev. 172 m

36° 13' 48" N, 82° 35' 03" W

Image © 2008 DigitalGlobe  
© 2008 TerraMetrics

52

52

Big Sandy River Rd

Richard Rd

Candy Rd

**Baker**

**Michael Baker Jr., Inc.**

*A Unit of Michael Baker Corporation*

April 30, 2009

5088 West Washington Street  
Charleston, West Virginia 25313

(304) 769-0821  
FAX (304) 769-0822

Mr. Thomas Chapman  
U.S. Fish and Wildlife Service  
West Virginia Field Office  
694 Beverly Pike  
Elkins, West Virginia 26241

Re: RT&E Species

Dear Mr. Chapman:

The West Virginia Public Port Authority (WVPPA) is proposing to develop an intermodal site on approximately 75 acres located in the vicinity of Prichard, West Virginia (See attached). As the NEPA consultant for the WVPPA, Michael Baker Jr., Inc. is preparing environmental records for properties associated with a proposed intermodal facility. The attached map indicates the project area within which we are updating our records. This area is located in Wayne County, West Virginia.

As part of this effort, a listing of state and federally listed rare, threatened, and endangered (RT&E) species known to occur (resident or transient) within the outlined area (depicted on the attached map) is requested by Michael Baker Jr., Inc., on behalf of the WVPPA. Any additional information concerning the number or probability of occurrences for individual species, critical habitat, migratory corridors, and high quality surface water resources would also be valuable.

If you have any questions or require further information please contact me at the above address and telephone number. Your efforts to assist in this study are greatly appreciated.

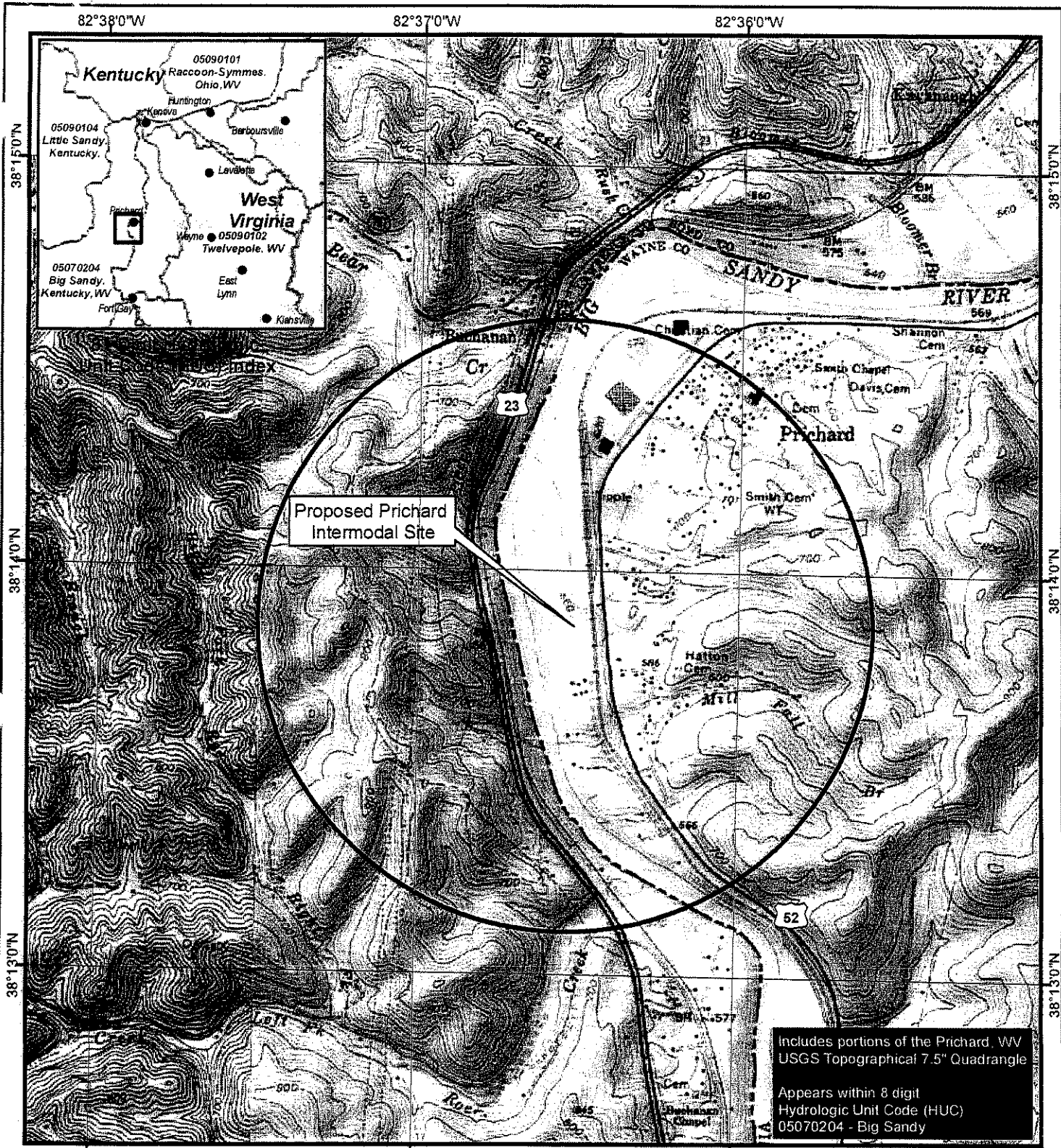
Sincerely,

MICHAEL BAKER JR., INC.



Charles A. Cook,  
Environmental Associate

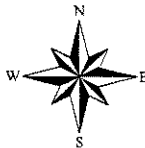
Enclosure: 1



## TOPOGRAPHICAL MAP OF PROJECT AREA

**Baker**

Michael Baker Jr., Inc.  
5088 W. Washington Street, 2nd Floor  
Charleston, WV 25313



2,000    1,000    0    2,000  
Feet

600    300    0    600  
Meters



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION  
Division of Highways

Joe Manchin III  
Governor

1900 Kanawha Boulevard East • Building Five • Room 110  
Charleston, West Virginia 25305-0430 • 304/558-3505

July 2, 2009

Ms. Deborah Carter  
US Fish and Wildlife Service  
694 Beverly Pike  
Elkins, West Virginia 26241

Dear Ms. Carter:

Proposed Prichard Intermodal Facility  
Wayne County

The West Virginia Public Port Authority (WVPPA) is proposing to develop an intermodal site on approximately 75 acres located in the vicinity of Prichard, West Virginia (see attached). As the NEPA consultant for the WVPPA, Michael Baker Jr., INC. is preparing environmental records for the properties associated with a proposed intermodal facility. Michael Baker Jr., INC. mailed a Section 7 Consultation letter to the United States Fish and Wildlife Service on April 30, 2009. The letter (attached) was concerning the presence of rare, threatened, and/or endangered species located within the Prichard Intermodal Facility Project Area (figured attached). Sixty calendar days passed, and no response letter was received. Michael Baker Jr., INC. mailed another letter on June 30, 2009 (attached) requesting a letter concurring that No Effect will result to any RT&E species.

This letter is on the behalf of Michael Baker Jr., INC. requesting a letter concurring that the only RT&E species in Wayne County, WV is the Indiana Bat (*Myotis sodalis*) and that the proposed intermodal facility which will not be adversely affecting any known RT&E species. The project location is shown on the USGS PRICHARD quadrangle map.

Your comments on possible effects to Federally-listed threatened and endangered species are requested on



United States Department of the Interior

FISH AND WILDLIFE SERVICE

West Virginia Field Office  
694 Beverly Pike  
Elkins, West Virginia 26241



In response to your letter above, we have made a "no effect" determination that the project will not affect federally-listed endangered or threatened species. Therefore no biological assessment or further section 7 consultation under the Endangered Species Act is required with the Fish and Wildlife Service. Should project plans change, or if additional information on listed and proposed species becomes available, this determination may be reconsidered.

Definitive determinations of the presence of waters of the United States, including wetlands, in the project area and the need for permits, if any, are made by the U.S. Army Corps of Engineers. They may be contacted at: Pittsburgh District, Regulatory Branch, William S. Moorhead Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222-4188, telephone (412) 395-7152.

*Bernadine [Signature]* 10.18.2010  
Reviewer's signature and date

*Deborah Carter* 10/19/2010  
Field Supervisor's signature and date

**Appendix B**  
**Section 106 Programmatic Agreement**

**PROGRAMMATIC AGREEMENT**  
**AMONG**  
**THE FEDERAL HIGHWAY ADMINISTRATION,**  
**THE WEST VIRGINIA PUBLIC PORT AUTHORITY,**  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,**  
**IF IT CHOOSES TO PARTICIPATE,**  
**AND**  
**THE WEST VIRGINIA STATE HISTORIC PRESERVATION OFFICER**  
**REGARDING THE PRICHARD INTERMODAL TERMINAL**  
**WAYNE COUNTY, WEST VIRGINIA**

WHEREAS, the Federal Highway Administration (FHWA) as lead Federal agency, in conjunction with the West Virginia Department of Transportation, Public Port Authority (WVPPA), proposes to construct an intermodal containerized cargo-handling facility in Prichard, Wayne County, West Virginia, and has determined that the proposal is an Undertaking per 36 CFR Part 800.16 (y);

WHEREAS, the Undertaking is subject to Section 106 of the National Historic Preservation Act (16 U.S.C. §470), as implemented by the regulations of the Advisory Council on Historic Preservation (ACHP) at 36 CFR 800;

WHEREAS, the FHWA, in consultation with the West Virginia State Historic Preservation Officer (WVSHPO), has determined that the Undertaking may have an adverse effect on architectural resources eligible for inclusion in the National Register of Historic Places (NRHP) (Attachment A);

WHEREAS, the FHWA, in consultation with the WVSHPO, has identified archaeologically sensitive areas and determined that the Undertaking may have an adverse effect upon archaeological properties eligible for inclusion in the NRHP (Attachment B);

WHEREAS, the effects on eligible historic and archaeological properties cannot be fully determined prior to approval of the Undertaking, as provided in 36 CFR 800.4(b)(2) concerning phased identification and evaluation;

WHEREAS, the United States Army Corps of Engineers, numerous Indian Tribes, and other parties have been invited to concur in this agreement;

NOW, THEREFORE, FHWA, the ACHP, and the WVSHPO agree that, upon FHWA's decision to proceed with the Undertaking, FHWA shall ensure that the following stipulations are implemented in order to take into account the effects of the Undertaking on eligible historic and archaeological properties, and that these stipulations shall govern the Undertaking and all of its parts until this agreement expires or is terminated.

## STIPULATIONS

### 1. ARCHAEOLOGICAL RESOURCES

- A. FHWA will ensure that all cultural resource investigations carried out pursuant to this agreement will be by or under the direct supervision of a person or persons meeting at a minimum the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-44739; repeated in 36 CFR 61, Appendix A).
- B. FHWA will ensure that all final archaeological reports resulting from actions pursuant to this agreement will be provided to the WVSHPO for review and comment. Anticipated reports include Phase I Archaeological Survey, Phase II Site Significance Evaluation, and possibly Phase III Site Data Recovery Reports. The reports will meet professional standards set forth by the Department of the Interior's *Format Standards for Final Reports of Data Recovery Programs* (42 FR 5377-79) and conform to WVSHPO's "Guidelines for Phase I, II, and III Archaeological Investigations and Technical Reports" dated December 2001, as amended (WVSHPO's Guidelines). With WVSHPO consent, management summaries may be used for consultation prior to completion of final reports.
- C. The FHWA will ensure that an archaeological identification survey of the area of potential effects [defined in 36 CFR 800.16(d)] of the Preferred Alternative of the Undertaking is conducted in a manner consistent with the Secretary of the Interior's *Standards and Guidelines for Identification* (48 FR 44720-23) and the WVSHPO's Guidelines. Prior technical consultation with WVSHPO concerning the Undertaking will be used as a guide in conducting field investigations and subsequent site analysis. In addition, the WVSHPO will review the Scope of Work for each phase of the archaeological investigations. A report of the survey will be forwarded to the WVSHPO for review and comment. The site identification report will contain locational information, descriptions of fieldwork, methods employed, results of fieldwork, pertinent maps, photographs, completed West Virginia Archaeological Site Forms, and recommendations and scope(s) of work to evaluate site significance, if necessary.
- D. The FHWA will evaluate properties identified through the archaeological survey for eligibility for nomination to NRHP in accordance with 36 CFR 800.4(c).
  - If FHWA and the WVSHPO agree that a property is not eligible for the NRHP, then no further cultural resource investigation of that property will be conducted.
  - FHWA will assess the effect of the Undertaking on each eligible site in accordance with 36 CFR 800.5.
  - If evaluation identifies an archaeological resource eligible for inclusion in the NRHP for its association with important events, persons, or other qualities, and it will be adversely effected by the Undertaking, the FHWA shall comply with 36 CFR 800.6.
  - If FHWA and the WVSHPO agree that there will be an adverse effect on resources that are only eligible for the information they contain and do not warrant preservation in place, the FHWA will ensure that they are treated in accordance with Stipulation 1E.
- E. If it is determined by FHWA and the WVSHPO that avoidance of an eligible archaeological site is impracticable and preservation in place is not warranted, the FHWA will develop and implement a data recovery plan in consultation with the WVSHPO. The plan will be consistent with the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation* (48 FR 44734-37) and WVSHPO's Guidelines.
- F. FHWA will ensure that any human remains encountered during the archaeological investigations are brought to the immediate attention of the WVSHPO and the county sheriff, in accordance with West Virginia Code §29-1-8a(d). No activities that might damage the remains will be conducted until FHWA has consulted with WVSHPO, Federally recognized Indian Tribes, and other interested parties.



- G. FHWA will ensure all records and materials resulting from the archaeological investigations will be curated in accordance with 36 CFR 79 and West Virginia Division of Culture and History's *Guidelines for Submitting a Collection to the Archaeological Collections Facility of West Virginia* (Archaeological Collections Facility 2002).
- H. FHWA will ensure that research results from data recovery at eligible archaeological sites will be disseminated to the public.
- I. In the event of unanticipated discoveries during construction, all activities will be suspended in the area of the discovery. FHWA will contact the WVSHPO within two working days of the discovery. FHWA and the WVSHPO will agree upon appropriate treatment of the discovery prior to resumption of construction activities in the area of the discovery.

## 2. ARCHITECTURAL RESOURCES

- A. Architectural resources are defined as non-archaeological resources consisting of historic buildings, structures, objects, landscapes, and districts. The WVSHPO shall review and comment upon a Scope of Work that will be developed for the identification and evaluation of historic resources within the architectural Area of Potential Effects (APE) of the proposed undertaking.
- B. Prior to the initiation of identification of historic resources, FHWA shall ensure that an APE and supported justification is submitted to the WVSHPO for review and comment.
- C. Upon approval of the APE, a historic resources survey will be conducted to identify all previously unrecorded resources 50 years of age and older and to confirm the presence and current condition of previously recorded resources within the limits of the APE.
- D. West Virginia Historic Property Inventory (WVHPI) forms will be prepared for newly identified historic resources and for any previously recorded resources that have changed significantly since their initial recordation.
- E. The results of the historic resources survey and background research will be presented in a Determination of Eligibility Report, which will be submitted to the WVSHPO for review and comment.
- F. A Determination of Effect Report will be prepared for National Register-eligible and contributing architectural and engineering features in the APE. If an eligible resource will be adversely effected by the Undertaking, the FHWA will consider alternatives to avoid adverse effect to resources in accordance with 36 CFR 800.6. Resources that will be adversely affected by the undertaking will be documented in their historic setting. The documentation package for each feature will include 5x7" format black and white digital prints, and a completed WVHPI form with historic context. If original plans of the extant features are available, copies will be included in the package. The mitigation of adverse effects may also include an educational component. Such mitigation measures will be developed in consultation with the WVSHPO.
- G. In the event of an unanticipated discovery of an architectural resource, FHWA and the WVSHPO will consult on appropriate measures as provided under 36 CFR 800.13(b) and (c).

## 3. ADMINISTRATIVE CONDITIONS

- A. While not required as part of this agreement, it is anticipated that the FHWA will administer its cultural resources obligations in this agreement through the WVPPA and the West Virginia Department of Transportation, Division of Highways.
- B. No construction activity will occur within the limits of an eligible historic property until all inventory, documentation, or data recovery has been completed and a report or management summary has been reviewed by the WVSHPO.


- C. The WVSHPO may monitor activities carried out pursuant to this agreement, and the ACHP will review such activities if so requested. The FHWA will cooperate with the ACHP and the WVSHPO in carrying out monitoring and review responsibilities.
- D. Any Signatory to the agreement may request that it be amended, whereupon the parties will consult to consider such amendment.
- E. In the event the FHWA does not carry out the terms of this agreement, the FHWA will comply with 36 CFR 800.3 - 800.7 with regard to the Undertaking covered by this agreement.
- F. Any Signatory to this agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the FHWA will comply with 36 CFR 800 with regard to the individual Undertaking covered by this agreement.

#### 4. DISPUTE RESOLUTION AND AGREEMENT EXPIRATION


- A. This agreement shall expire if its terms are not carried out within 10 years from the date of its execution, unless the Signatories agree in writing to an extension.
- B. Should a Signatory object to any actions proposed pursuant to this agreement, the FHWA will consult with the Signatories within fifteen (15) days to resolve the objection. If the FHWA determines that the objection cannot be resolved, the FHWA will request the comments of the ACHP pursuant to 36 CFR 800.7. Any ACHP comment provided in response to such a request will be taken into account by the FHWA with reference only to the subject of the dispute. The FHWA responsibility to carry out all actions under this agreement that are not the subjects of the dispute will remain unchanged.

Execution of this agreement, its submission to the ACHP, and implementation of its terms evidence that the FHWA has afforded the ACHP an opportunity to comment on the Undertaking and its effects on historic properties, and that the FHWA has taken into account the effects of the Undertaking on historic properties.

**SIGNATORIES:**

  
\_\_\_\_\_  
Federal Highway Administration

9/12/11  
Date


  
\_\_\_\_\_  
West Virginia State Historic Preservation Officer

11/10/09  
Date

\_\_\_\_\_  
Advisory Council on Historic Preservation, if it chooses to participate

\_\_\_\_\_  
Date

**INVITED SIGNATORIES**

  
\_\_\_\_\_  
West Virginia Department of Transportation, Public Port Authority

11/13/09  
Date

  
\_\_\_\_\_  
West Virginia Department of Transportation, Division of Highways

11/13/09  
Date

**Appendix C**  
**Phase I Environmental Site Assessment**  
**(Provided on CD)**